TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926

No. 200

THE UNITED STATES OF AMERICA, APPELLANT, vs. SISAL SALES CORPORATION, CHARLES D. ORTH, ALVIN W. KRECH, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

FILED AUGUST 21, 1926

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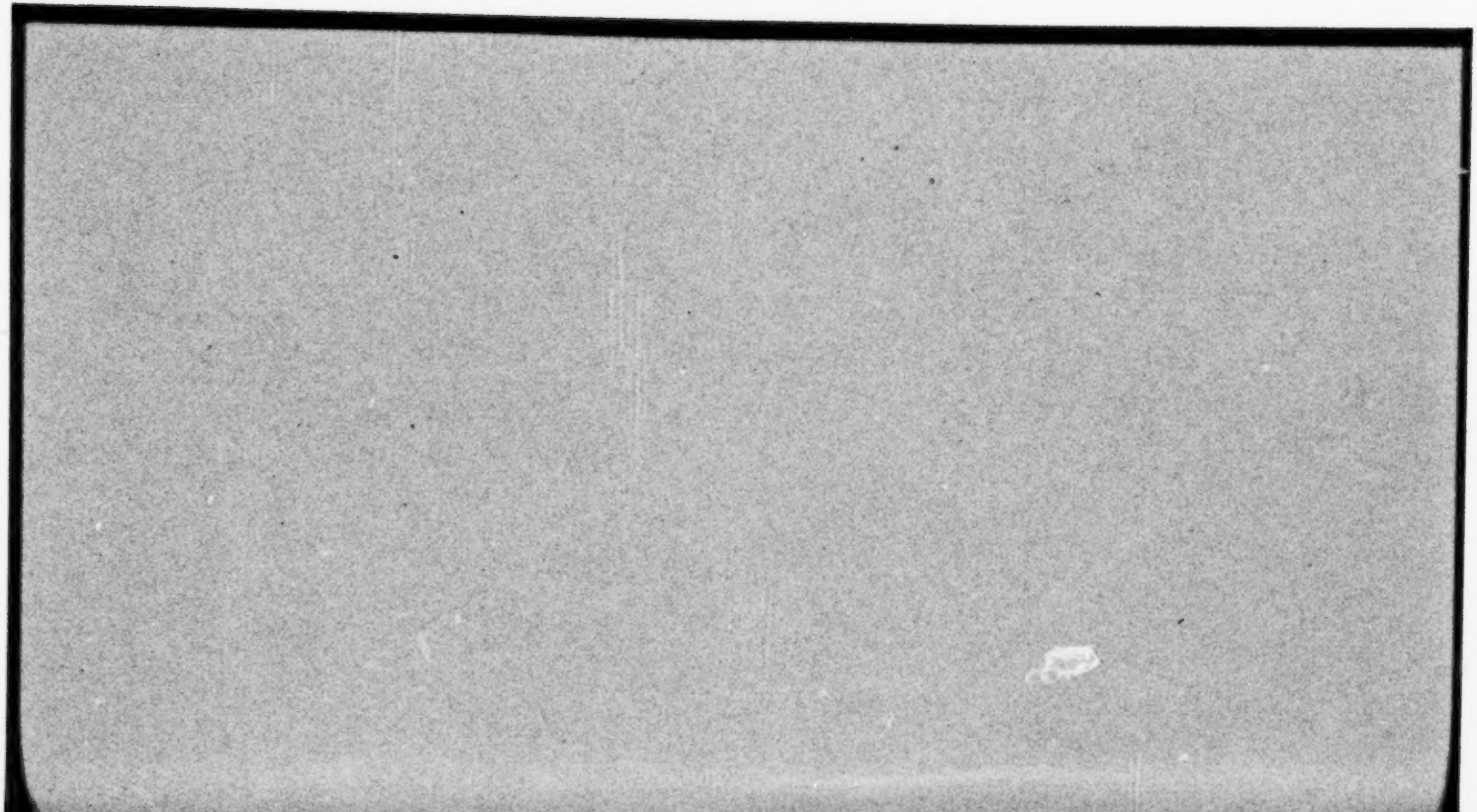

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1 In United States District Court for the Southern District of New York

UNITED STATES OF AMERICA, PETITIONER *v.* SISAL SALES CORPORATION, CHARLES D. ORTH, ALVIN W. Krech, Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, Michael J. Smith, Charles D. Orth, jr., The Equitable Trust Company of New York, The Royal Bank of Canada, Interstate Trust and Banking Company, Hanson and Orth, Comision Exportadora de Yucatan, Tomas Castellanos Acevedo, Eric Corporation, defendants	In Equity, No. —

Petition

To the Judges of the District Court of the United States for the Southern District of New York:

2 The United States of America, by its attorney for the Southern District of New York, acting under the direction of the Attorney General, brings this proceeding in equity against:

I

THE DEFENDANTS

Sisal Sales Corporation, a corporation organized under the laws of the State of Delaware, engaged in the importation of sisal into the United States and its sale and distribution among the several States. It has an office in the Southern District of New York, in the city of New York, at 27 Cedar Street.

Charles D. Orth, a resident of the said city of New York. He is the president and a director of the Sisal Sales Corporation, and also a copartner in the defendant firm of Hanson and Orth.

Alvin W. Krech, a resident of New York. He is president and a director of The Equitable Trust Company of New York, president of the Eric Corporation, and director of the Sisal Sales Corporation.

Frederick T. Walker, a resident of New York. He is a vice president and a director of the Sisal Sales Corporation and the Eric Corporation, and an agent of The Royal Bank of Canada, having a branch office in New York.

Lynn H. Dinkins, a resident of the city of New Orleans, La. He is a vice president and a director of the Sisal Sales Corporation, a vice president and a director of the Eric Corporation, and also a director of the Interstate Trust and Banking Company (of New Orleans).

3 F. W. Black, a resident of New York. He is a vice president and a director of the Sisal Sales Corporation, a vice president and director of the Eric Corporation and also a director of The Equitable Trust Company of New York.

J. A. Beatson, a resident of New York. He is a vice president and a director of the Sisal Sales Corporation, a vice president and a director of the Eric Corporation and an agent of The Royal Bank of Canada.

Michael J. Smith, a resident of New York. He is a vice president, and the treasurer of the Sisal Sales Corporation, and a copartner of the firm of Hanson and Orth.

Charles D. Orth, jr., a resident of New York, and a copartner of the firm of Hanson and Orth.

The Equitable Trust Company of New York, a corporation organized under the laws of the State of New York, doing a banking business in the city of New York.

The Royal Bank of Canada, a corporation organized under the laws of the Dominion of Canada, having a branch office and doing a banking business in the city of New York.

Interstate Trust and Banking Company, a corporation organized under the laws of the State of Louisiana, doing a banking business in the city of New Orleans, La.

Hanson and Orth, a partnership composed of Charles D. Orth, Michael J. Smith, and Charles D. Orth, jr., engaged in a fiber
4 brokerage business with offices at 27 Cedar Street, New York, and acting as general managers of the defendants Sisal Sales Corporation and Eric Corporation.

Comision Exportadora de Yucatan, a body corporate created by the State of Yucatan, one of the States of Mexico, having its principal office in Merida, Yucatan, is authorized to conduct business and commercial transactions and to engage in the purchase, sale, and exportation of sisal; is engaged with the Sisal Sales Corporation in exporting sisal from Yucatan to the United States, and in commerce in sisal among the States of the United States, with an office at 27 Cedar Street, New York City.

Tomas Castellanos Acevedo, a resident of the State of Yucatan, Mexico, attorney in fact of the said Comision Exportadora de Yucatan, and its principal representative in its relations with the Sisal Sales Corporation and other American interests.

Eric Corporation, a corporation organized under the laws of the State of Delaware, with power to engage in the purchase and importation of sisal from Mexico into the United States, and the sale of sisal in the States of the United States, having an office in the Southern District of New York, in the City of New York, at 27 Cedar Street.

II

JURISDICTION

Defendants in the manner and by the means hereinafter alleged are engaged in a combination and conspiracy in restraint of
5 interstate and foreign trade and commerce in sisal, and in contracts in restraint of such trade and commerce, and are monopolizing and attempting to monopolize such trade and com-

merce, in violation of the antitrust laws of the United States, particularly the "Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and section 73 of the act commonly known as the Wilson Tariff Act of August 27, 1894, as amended by the act of February 12, 1913, and this suit is instituted to prevent and restrain the defendants from further violating the provisions of the aforesaid acts.

Large quantities of sisal are imported by the defendants into the Southern District of New York, within the jurisdiction of this court, as well as into other ports of the United States, in pursuance of said unlawful combination, conspiracy, contracts, monopoly and attempt to monopolize, and are being shipped by said defendants from and through the Southern District of New York to and through various States of the United States. This transportation of sisal normally constitutes a continuous course of interstate and foreign trade and commerce. Many acts in furtherance of said combination, conspiracy, and monopoly have been and are being in part carried out in the Southern District of New York, including the execution of the hereinafter described contracts of December 22, 1921, and June
19, 1923, and the defendants Orth, Orth, jr., Krech, Walker,
6 Black, Beatson, and Smith are residents thereof, and the de-
fendants Sisal Sales Corporation, The Equitable Trust Company of New York, Hanson and Orth, and Eric Corporation have their principal offices therein.

III

DESCRIPTION OF SUBJECT MATTER

Sisal is a fiber obtained from the henequen plant and is used mainly in the manufacture of binder twine.

Mexico is the only country in which sisal is produced in sufficient quantities to supply the needs of the United States. Practically the entire output of that country is grown in the State of Yucatan, and, with the small quantity produced in the neighboring State of Campeche, is exported through the port of Progresso, Yucatan, to the United States. A small quantity is exported through the port of Campeche. For a period of twenty years or more, Mexican sisal has been able to fill the requirements of the binder twine manufacturers in the United States. Considerably more than 1,000,000 bales of the average weight of 375 pounds each were thus exported to the United States in the year ending June 30, 1916. Since that date the quantity of sisal exported to the United States has ranged from not less than 450,000 bales to 1,000,000 bales a year. The annual requirements of binder twine of the United States range from 250,000,000 to 300,000,000 pounds. There is no efficient substitute for
binder twine in the operation of the grain harvesting ma-
7 chinery. Without binder twine the successful harvest of cereal crops on the present scale of production would be impossible.

More than 80 per cent of the binder twine used in the United States is made of sisal. The remainder is made principally of manila hemp (abaca) produced in the Philippine Islands, the demand for which, for the manufacture of rope, is so great that only a part of the output is available for use in the manufacture of twine. An insignificant portion is made of fibers imported from other tropical countries—Java, Hawaii, German East Africa, and New Zealand. No material, however, other than sisal can now be produced in sufficient quantities to meet the needs of the farmers of the United States. Sisal is, therefore, an article of prime necessity to American agriculture.

A number of manufacturers in the United States, including the penitentiaries of at least nine States, are engaged in the manufacture of binder twine. It is produced with a narrow margin of manufacturing profit. The increase in the cost of sisal is accordingly reflected immediately in the cost of binder twine. Every cent increase in the cost per pound of sisal increases the cost in the annual supply of twine for the farmers of the United States by more than $3,000,000.

IV

FIRST SUCCESSFUL MONOPOLIZATION OF TRADE AND COMMERCE IN SISAL IN THE UNITED STATES

(A) Contract of October 21, 1915

Prior to 1915 sisal was sold to manufacturers of binder twine in the United States under conditions of competition. The
8 planters producing sisal in Mexico sold to the various individuals and concerns engaged in the purchase of sisal in competition with each other. These purchasers in turn sold to the various manufacturers of binder twine in the United States, or to brokers in the United States, who, in competition with each other, in turn sold and shipped to the manufacturers.

In the summer or autumn of 1915, the defendant, Lynn H. Dinkins, associated with one Sol Wexler, entered into negotiations which were carried on at the city of New Orleans, La., and which resulted in October, 1915, in an agreement to the effect that the Comision Reguladora del Mercado de Henequen, an institution created under the laws of the State of Yucatan, Mexico, should purchase the entire sisal output of Mexico, import it into the United States, and withhold it from the market as long as necessary to enable it to be sold at the increased prices and upon the conditions to be fixed by the parties to such agreement.

The part to be performed by Sol Wexler and Lynn H. Dinkins in making the combination effective was set out in a contract in writing entered into between them and the Comision Reguladora del Mercado de Henequen at the city of New Orleans, and dated October 21, 1915. In this contract it was recited that the Comision

Reguladora del Mercado de Henequen desired to establish a continuous credit of $10,000,000 "in the United States for a period of five years, in order to enable it to purchase and thereafter import
9 into the United States sisal grass or henequen, and for other lawful purposes of its business," and that Sol Wexler and Lynn H. Dinkins were willing to undertake to procure and extend the credit so desired "for the purposes aforesaid;" it was covenanted that on the faith of the contract the Comision Reguladora del Mercado de Henequen "will and intends to enter into large contracts for the purchase in Yucatan of henequen or sisal grass and will thereby incur large liabilities which can only be met by obtaining" the credit mentioned in the contract; and it was provided that within twenty days Sol Wexler and Lynn H. Dinkins would cause a corporation to be organized in the United States, which should adopt and carry into effect the various provisions of the contract according to its tenor and purpose.

The corporation provided for was not organized within the twenty days fixed in the contract but was organized shortly thereafter and was known as the Pan-American Commission Corporation. Negotiations were continued and (upon the Comision Reguladora del Mercado de Henequen being reorganized on November 11, 1915) a further contract in writing, dated November 13, 1915, was entered into between Sol Wexler and Lynn H. Dinkins, and the Comision Reguladora del Mercado de Henequen, acting through its then duly authorized representative, Victor A. Rendon, embodying and carrying forward, with slight modifications, the terms and conditions of the contract above described. This contract, hereinafter referred to as the contract of November 13, 1915, was reduced to final form and executed at the city of New York.

10 (B) Contracts with producers for purchase of entire output of sisal

Subsequent to the formation of the before-mentioned combination and prior to the date of the formal contract of November 13, 1915, a decree was obtained from and promulgated by the military governor of Yucatan by which the Comision Reguladora del Mercado de Henequen was reorganized.

By this decree the Comision Reguladora del Mercado de Henequen was specifically authorized to enter into "contracts of commercial association" with the producers of sisal within and without the State of Yucatan, whereby they would become associate members of and would be obliged to deliver to the Comision Reguladora del Mercado de Henequen, to be disposed of by it, all sisal produced by them during the period fixed in the contracts. Provision was also made for the pro rata distribution among the associate members of the ownership (1) of the then existing capital of the Comision Reguladora del Mercado de Henequen, which had been derived from the special taxes on unmanufactured sisal theretofore received and collected by it, and (2) of the surplus thereafter to accrue from its operations.

The management of the business of the Comision Reguladora del Mercado de Henequen was "entrusted only to the general manager,"
who was invested with general and specific power to adminis-
11 ter its property and affairs. And the law providing for the creation of the Comision Reguladora del Mercado de Henequen, and the decree made in pursuance thereof, were amended in various respects, and all conflicting laws, decrees, and regulations were abolished.

Thereupon provision having been made by the contract of November 13, 1915, for the credit and assistance necessary to carry out the purposes of such combination as above mentioned, the Comision Reguladora del Mercado de Henequen, in pursuance of the power conferred upon it by the last-mentioned decree, entered into contracts in writing with all or practically all of the producers of sisal in Mexico. By these contracts, the producers of sisal were firmly bound for a period of five years to deliver to the Comision Reguladora del Mercado de Henequen all the sisal produced by them, to be disposed of by it; the Comision Reguladora del Mercado de Henequen was to pay to each producer on the delivery of the sisal so delivered a price fixed and subject to change by the Comision Reguladora del Mercado de Henequen, the price to go into immediate effect upon the execution of the contracts to be $1.00 American gold, or its equivalent in national currency, for each 11½ kilos of sisal delivered in Progresso, or about 4 cents a pound; and at the end of each year the books of the Comision Reguladora del Mercado de Henequen were to be closed and the net proceeds distributed to the producers in proportion to the amount of sisal delivered by them in the course of the year.

12 (C) Organization of Pan-American Commission Corporation

The Pan-American Commission Corporation was incorporated under the laws of New York, on or about the 8th day of December, 1915, with an authorized capital stock of $2,000,000 divided into shares of $100 each, of which $1,000,000 was preferred and $1,000,000 common stock. Broad powers were conferred upon this corporation, among others the powers to act as agent or representative of corporations, firms, and individuals; to do a general business as commission merchant, broker, selling agent, and to carry on business as manufacturers, producers, merchants, importers, and exporters generally, but especially of sisal, henequen, hemp, and fiber of every class and kind; to obtain or procure credit for any person or corporation with whom said corporation shall do business.

Upon its organization the Pan-American Commission Corporation accepted and became a party to the contract of November 13, 1915, and in consideration thereof issued its common stock in the sum of $1,000,000 to said Sol Wexler and Lynn H. Dinkins, or to their order. Its preferred stock in the sum of $1,000,000 was sold at par for cash, which was turned into its treasury. One-half of the common stock was given as a bonus to the purchasers of the preferred stock in pro-

portion to the amounts purchased by each. The remaining one-half of the common stock was retained by Sol Wexler and Lynn H.
13 Dinkins, who became directors, and president and vice president, respectively, of the Pan-American Commission Corporation.

In accordance with the contract of November 13, 1915, as modified February 16, 1916, the Pan-American Commission Corporation received a minimum annual compensation of $450,000 (in addition to current rates of interest, not less than 4 per cent or more than six per cent, on loans it made on sisal) for supplying the assistance deemed necessary to make the combination effective, and the monopoly of sisal complete.

(D) Effect of monopoly

As a result of the above combination and the above-described acts done in furtherance thereof, the parties to the said combination obtained a complete monopoly of trade and commerce in sisal among the States of the United States and between the United States and Mexico. The Comision Reguladora del Mercado de Henequen became the sole purchaser of sisal from the producers in Mexico, and sole importer of sisal into the United States, and the sole seller of sisal in the United States. The parties to the above agreement were able to fix arbitrarily the price of sisal in the United States. The price, which at the time of the formation of such combination was 5½ cents per pound at New York, was rapidly advanced. By May 22, 1916, the price had reached 7⅝ cents per pound at New York, notwithstanding the quantity of sisal imported into
14 the United States for the year ending June 30, 1916, was greatly in excess of the importation in any previous year; by July 11, 1916, the price had been further increased to 10⅜ cents per pound; by December 23, 1916, to 14½ cents per pound; and by January 25, 1917, to 16½ cents per pound.

In 1917 the Mexican interests, no longer requiring the services of the Pan-American Commission Corporation to borrow money, repudiated the contract of November 13, 1915, as modified. A suit brought against that company, the Comision Reguladora and others, under the antitrust laws, was dismissed without prejudice for want of actuality.

V

EFFORTS ON THE PART OF CERTAIN DEFENDANTS TO RESTRAIN AND MONOPOLIZE TRADE AND COMMERCE IN SISAL BETWEEN 1917 AND 1921

(A) Efforts of the Comision Reguladora to maintain exorbitant war-time prices

Until about August, 1919, the Comision Reguladora del Mercado de Henequen was practically the only distributor of Mexican sisal. It maintained offices both in Yucatan and the city of New York. There being little money obtainable in Yucatan, the Comision Reg-

uladora del Mercado de Henequen was obliged to borrow large sums from banks in the United States. Most of this money was furnished by The Equitable Trust Company of New York and The Royal Bank of Canada, which maintains a branch in the same
15 place. Some money was also furnished by the Interstate Trust and Banking Company, of New Orleans, La., and other banks in the United States. The said banks advanced to the Comision Reguladora del Mercado de Henequen from 4 cents to 6 cents per pound on all sisal purchased for shipment to the United States. During the years 1917 and 1918, when the price of sisal reached as high as 19 cents per pound, the Comision Reguladora del Mercado de Henequen was paying the producer in Yucatan from 4 cents to 7 cents per pound, and such payments to some extent were made in scrip now practically worthless.

In order to maintain such exorbitant prices it was necessary for the Comision Reguladora del Mercado de Henequen to purchase all available Mexican sisal. In maintaining this monopolistic control, it accumulated a surplus in the United States of about 400,000 bales of sisal pledged to the said banks, who held warehouse receipts issued by warehouses in various parts of the United States where the said sisal was stored.

In the latter part of 1919 the price of sisal declined. The price had gone so high that manufacturers were substituting other fibers for sisal. During the war Manila hemp was used considerably for war purposes, especially in the manufacture of rope for naval vessels. Owing to the enormous demand for fiber during the war, the production of hemp in the Philippine Islands, and other hemp producing countries, had been greatly stimulated as it had also
16 been stimulated in Yucatan. After the armistice the supply of Manila hemp for purposes other than war purposes gradually increased. As a result a large surplus of sisal and other fiber had accumulated.

The Comision Reguladora del Mercado de Henequen has dissipated much of its large profits, and many of the persons connected with it removed to foreign countries. There being a large quantity of surplus sisal stored in the United States, the manufacturers in the United States refused to purchase except in small quantities. The interested banks, realizing that a period of readjustment was at hand, refused further advances. Thus, there being no further outlet for Mexican sisal under the old arrangement, the Yucatan State Government declared a free and open market.

(B) Organization of defendant Eric Corporation to control the American market

The Comision Reguladora del Mercado de Henequen collapsed about August, 1919, and the interested banks foreclosed on the sisal stored in the United States which was held as collateral to secure loans amounting to several million dollars. The said banks then had on

hand about 400,000 bales of sisal which they desired to dispose of in order to recover their loans. They finally organized the defendant Eric Corporation as a selling agency.

This corporation was organized and is existing under the laws of the State of Delaware. The name Eric was obtained by taking the first letter of the name of each of four banks in the United States:

17 "E" (Equitable Trust Company of New York).

"R" (Royal Bank of Canada).

"I" (Interstate Trust and Banking Company, of New Orleans, La.).

"C" (Continental and Commercial National Bank, of Chicago, Ill.).

It was incorporated October 22, 1919, with a capital stock of $100,000, represented by 1,000 shares of $100 each. On the same day that incorporation papers were issued, a meeting was held and 900 shares of the said 1,000 shares were issued to the following directors: Lynn H. Dinkins, of the Interstate Trust and Banking Company; Alvin W. Krech, president, The Equitable Trust Company of New York; and Frederick T. Walker, vice president, The Royal Bank of Canada.

The charter of the Eric Corporation did not limit itself to the simple marketing of the sisal reduced to possession by said banks. In fact, the Eric Corporation was the dominant factor in Mexican sisal from the beginning of its organization, dealing with various officials of the Mexican Government and the State of Yucatan, arranging through its interested banks in the United States to make other advances for the purpose of regulating the price of sisal, and continuously engaged in such activity until about December 22, 1921, when it arranged to dispose of its sisal to the Comision Reguladora del Mercado de Henequen (now the Comision Exportadora de Yucatan), and on or about the same date arranged to sell its

18 other assets to the Sisal Sales Corporation, both organizations being hereinafter more particularly described.

At a meeting held on the 24th of March, 1920, the capital stock of the Eric Corporation was increased from $100,000 to $6,450,000, divided as follows: 62,500 shares of preferred stock, par value $100 per share; and 2,000 shares common stock, par value $100 per share.

On the same date the common stockholders of record were as follows: Lynn H. Dinkins (Interstate Trust and Banking Company), 270 shares; S. T. Murdock (now deceased), 50 shares; John R. Longmeyer (connection unknown), 47 shares; Henry Cooper (The Equitable Trust Company of New York), 316 shares; F. T. Walker and J. A. Beatson (The Royal Bank of Canada), 317 shares.

In addition to the large stocks of sisal taken over by the Eric Corporation from the said interested banks in the United States, there was a surplus of sisal in Yucatan owned by the Comision Reguladora del Mercado de Henequen amounting to approximately 250,000 bales. In order to protect the sisal stored in the United

States from the price decline, it was considered necessary to control the sisal still owned by the Comision Reguladora del Mercado de Henequen. The same was therefore purchased by the Eric Corporation from the Comision Reguladora del Mercado de Henequen, giving preferred stock of the Eric Corporation in payment. This was accomplished by a contract between the Eric Corporation and
19 the Comision Reguladora del Mercado de Henequen, dated January 23, 1920. The said contract was carried into effect and other preferred stock was issued to the Comision Reguladora del Mercado de Henequen from time to time in order to purchase additional quantities of sisal, and all of such certificates were deposited with the banks by way of further security. A copy of said contract is annexed hereto, marked "Exhibit A," and prayed to be considered a part hereof.

(C) Organization of the Comision Monetaria to control the Mexican market

In January, 1921, the Comision Reguladora del Mercado de Henequen was practically moribund. The Eric Corporation was having serious difficulty in disposing of the sisal stored in the United States. Owing to the open market prevailing in Yucatan after the financial collapse of the Comision Reguladora del Mercado de Henequen the independent buyers in Yucatan were able to purchase fresh sisal at a price about as low as Eric Corporation could afford to sell the sisal stored in the United States. Furthermore, fresh sisal was more in demand, as the stored sisal owned by the Eric Corporation was unfavorably regarded because of rumored deterioration.

In January, 1921, the Equitable Trust Company had a financial agent, John B. Glenn, stationed in the City of Mexico. Negotiations were carried on between the said Glenn and the finance minister of the Mexican Government, de la Huerta. The Eric
20 Corporation was kept advised regarding the progress of these negotiations. About this time the defendant, Lynn H. Dinkins, vice president and acting manager of the affairs of the Eric Corporation, went to the City of Mexico at the request of said John B. Glenn for the purpose of making a satisfactory agreement with the Mexican Government with respect to sisal. Dinkins reported that the only way to regulate the price of sisal so that the Eric Corporation could dispose of its surplus stock and otherwise profit was to prevail upon the Mexican Government to impose a Federal tax and thus insure an artificial elevation of the price of sisal.

The Comision Monetaria was organized in the early part of 1921 for the purpose of entering the sisal market in Yucatan and purchasing sisal in sufficient quantities at an arbitrary price in order to raise the price of sisal. In order to make effective the purpose for which it was organized, financial assistance was obtained from the Eric Corporation and its affiliated banks.

Although the agreements had been tentatively made during the visit of said Lynn H. Dinkins to Mexico City in the early months of 1921, a formal contract was signed on April 20, 1921. A copy of said contract is annexed hereto marked "Exhibit B" and prayed to be considered a part hereof.

The Eric Corporation agreed to advance the Comision Monetaria such sums of money as were necessary to purchase sisal, holding such sisal as collateral security. The contract also contemplated that the Mexican Government would so arrange all Federal
21 export taxes that the Comision Monetaria and the Eric Corporation would be exempt. The Comision Monetaria proposed to purchase sisal at a fixed price of 5½ cents per pound, although the Eric Corporation suggested a price of 6 cents per pound.

On or about April 23, 1921, the Comision Monetaria began to purchase sisal at 5½ cents per pound, which represented an increase of 1½ cents per pound over the price which had prevailed for several months previous.

The Mexican Government had, on March 19, 1921, proclaimed a decree increasing the export tax from 2 cents Mexican (1 cent U. S. gold) to 6 cents Mexican (3 cents U. S. gold) per kilo (i. e., 2.2 pounds). The sisal purchased by the Comision Monetaria was shipped in the name and for the account of the Eric Corporation. Upon the entry of the Comision Monetaria into the sisal market in Yucatan, all independent purchasers suspended operations because of the closed market thus brought about by the imposition of the said Federal tax on them, which tax was discriminatory in favor of the Comision Monetaria and the Eric Corporation.

(D) Collapse of the Comision Montetaria in July, 1921

Notwithstanding the discriminatory Federal export tax in favor of the Comision Monetaria and the Eric Corporation, the sisal market continued weak because the large quantity of sisal owned by the Eric Corporation and stored in the United States had not been
22 disposed of. Finally the interested banks in the United States, through the Eric Corporation, refused to make further advances of money to the Comision Monetaria. Consequently, the Comision Monetaria ceased purchasing sisal and was eliminated as a factor in the sisal market on July 11, 1921. On August 23, 1921, the said additional Federal export tax of 4 cents Mexican (2 cents U. S. gold) per kilo was repealed, over the protest of the Eric Corporation. Again there existed an open market in Yucatan, which continued until the establishment of the present monopoly as hereinafter described.

The total amount of sisal produced by the Comision Monetaria through the financial assistance of the Eric Corporation was about 180,000 bales. Of this amount about 80,000 bales were sold, leaving an additional 100,000 bales to be added to the stock of sisal already owned by the Eric Corporation.

VI

THE EXISTING RESTRAINT AND MONOPOLIZATION

(A) Preliminary negotiations

On or about May 1, 1921, the defendants (except the Comision Exportadora de Yucatan and the Sisal Sales Corporation) being alarmed by threatened conditions of competition in the sisal trade, and seeking to secure the control of the business which it had been the purpose of the Eric Corporation and the Comision Monetaria to exercise, which control it had become apparent could not be made completely effective by the combination between the Eric Cor-
23 poration and the Comision Monetaria, combined, conspired, and confederated together to restrain and monopolize the interstate and foreign trade and commerce of the United States in sisal, and to prevent and restrain competition in the purchase and sale of sisal, and to maintain the price of that commodity at much higher levels than would obtain under conditions of free and open competition.

In pursuance of their unlawful purpose, the defendants, Charles D. Orth, Alvin W. Krech, Lynn H. Dinkins, F. W. Black, J. A. Beatson, Frederick T. Walker, Michael J. Smith, Tomas Castellanos Acevedo, and others, held a series of conferences in New York City, and elsewhere in the United States, at which it was agreed that the defendants, Thomas Castellanos Acevedo (now attorney in fact for the said defendant, Comision Exportadora de Yucatan, formerly Comision Reguladora del Mercado de Henequen) should proceed to Yucatan, Mexico, and arrange with the persons in control of the Yucatan State Government, and others, for the formation of an organization under the control of the Yucatan State Government, to engage in the purchase, sale, and export of sisal produced in Yucatan, and to cause to be enacted in the Republic of Mexico, or in the States of Yucatan and Campeche, any laws or regulations necessary to create a monopoly of the sisal produced in said States, and such laws and regulations as might be necessary for a reduction of acreage and control of prices.

24 It was further agreed that in the event of satisfactory arrangements upon the part of the said Castellanos with the said Mexican authorities, the defendant, the Eric Corporation, would arrange to sell all of its holdings of stored sisal to such Yucatan corporation or selling agency as might be created, and that the Eric Corporation, or some other corporation to be formed by or through it, would arrange to make all necessary loans or advances of money, to the end that the proposed organization, corporation, or selling agency in the State of Yucatan might effectively function, and that a monopoly in sisal might be established and the price thereof artificially increased to about 7 cents per pound.

That said Castellanos would arrange to have the proposed Yucatan organization purchase from the Eric Corporation all of its stored sisal at a fixed arbitrary price of about 7 cents per pound, upon terms to be later agreed upon, and further to arrange to have the proposed organization in Yucatan enter into a contract with a selling agency which would thereafter be established by said defendants in the United States, under such terms as might be subsequently agreed upon, which would give the proposed selling agency in the United States the exclusive sale of all sisal purchased by the proposed Yucatan organization.

All of the terms of the above combination, conspiracy, or agreement were substantially agreed to, and the necessary arrangements made, as hereinafter more fully set forth.

25 (B) Organization of new Comision Reguladora del Mercado de Hennequen

On or about July 16, 1921, the State of Yucatan enacted a law putting the old Comision Reguladora del Mercado de Henequen into liquidation and establishing a new Comision Reguladora del Mercado de Henequen. This law also provided a moratorium of ten years as to the old Comision Reguladora del Mercado de Henequen, the obligations of which could be paid the creditors in instalments of 10 per cent a year. The organization of the new Comision Reguladora del Mercado de Henequen and the law enacted by the State of Yucatan affecting its operations were brought about largely through the activities of Tomas Castellanos Acevedo and his associates in carrying out his unlawful agreement with the other defendants in the United States, heretofore referred to.

After the repeal of the extra Federal export tax on August 23, 1921, and the subsequent opening of the market in Yucatan, independent buyers began purchasing sisal at from 3 cents to 3¾ cents per pound. From this time to the end of the year the price of sisal gradually declined, as a result of the Eric Corporation quoting its stored sisal in the United States at exceedingly low prices.

During the month of November, 1921, the Eric Corporation made quotations to the trade as low as 2¾ cents per pound. These quotations were not in good faith, however, but were made to im-
26 press the officials of the Yucatan State Government and the sisal producers in Yucatan with the fact that the Eric Corporation had on hand such large stores of sisal and was backed by such powerful financial interests that it was capable of selling its sisal at figures calculated to ruin the farmers and others engaged in the sisal industry, and thus compel the officials of the Yucatan State Government to enter into such an arrangement as the Eric Corporation and its affiliated banks might desire to impose.

While the above price quotations by the Eric Corporation did disturb the market in Yucatan, and thus have the desired effect upon the Yucatan officials and producers, it did not cause any substantial

losses to the Eric Corporation, as it only filled orders to the amount of a few thousand bales. That is to say, when twine manufacturers submitted orders for full requirements of sisal at 2¾ cents per pound, the Eric Corporation refused to fill their orders, except for a very limited quantity of sisal.

(C) Contact for the services of Hanson and Orth

The defendant, Hanson and Orth, is an important fiber brokerage concern, with its principal offices at 27 Cedar Street, New York, N. Y., occupying the same offices as the Sisal Sales Corporation and the Eric Corporation. On September 12, 1921, the Eric Corporation entered into a formal contract with the firm of Hanson and Orth, whereby said firm became the general managers of the business of the Eric Corporation in disposing of its sisal and was to
27 receive for such service an annual salary of $50,000 and a commission of 1 per cent on the gross sales of sisal.

A copy of the above contract is annexed hereto, marked "Exhibit C," and prayed to be considered a part hereof.

This agreement secured the services of the defendant, Charles D. Orth, a member of said firm, who is one of the persons who devised and created the present scheme for the sisal monopoly in Yucatan, as hereinabove alleged.

After the organization of the Sisal Sales Corporation the firm of Hanson and Orth occupied the same relationship with such corporation under a verbal agreement, and the said Charles D. Orth also became president of the Sisal Sales Corporation. About June, 1923, upon the execution of a supplemental contract between the Comision Exportadora de Yucatan and the Sisal Sales Corporation whereby the commission of the Sisal Sales Corporation on the gross sales of sisal was reduced from six per cent to three per cent, the salary of $50,000 per year received by Hanson and Orth from the Sisal Sales Corporation was discontinued, but the said firm continued to receive from such corporation a commission of one per cent on the gross sales of all sisal sold by the Sisal Sales Corporation.

On April 1, 1924, a formal contract was executed between the Sisal Sales Corporation and the firm of Hanson and Orth whereby the firm of Hanson and Orth continues to act as general manager
28 of such corporation, receiving a commission of 1 per cent on all sisal sold by the Sisal Sales Corporation.

A copy of the above contract is annexed hereto, marked "Exhibit D," and prayed to be considered a part hereof.

(D) Organization of the Sisal Sales Corporation

There were several reasons which made it expedient for the Eric Corporation to retire from business, provided it could transfer its assets to some new corporation of a similar character. Therefore practically the same persons and interests organized a new selling

agency, known as the Sisal Sales Corporation, under the laws of the State of Delaware.

A certificate of incorporation was issued November 5, 1921. The first meeting was held on the 9th day of November, 1921, at which the following directors were elected:

Alvin W. Krech, F. W. Black (of The Equitable Trust Company of New York); Frederick T. Walker, J. A. Beatson (of The Royal Bank of Canada); and Lynn H. Dinkins (of the Interstate Trust and Banking Company, of New Orleans).

Thereafter certain meetings were held in which the by-laws were amended providing for more directors, and a meeting was held December 14, 1921. The original incorporators above mentioned submitted an offer in writing to purchase the entire capital stock of 150 shares for the amount of $1,500 cash. This offer was formally accepted and shares were issued as follows:

29 Henry H. Tappen (The Equitable Trust Company of New York), 50 shares.

Frederick T. Walker and J. A. Beatson (The Royal Bank of Canada), 50 shares.

Lynn H. Dinkins (Interstate Trust and Banking Company), 50 shares.

(E) Discriminatory tax of December 14, 1921, and restriction of production through influence of the defendant Castellanos

The new Comision Reguladora del Mercado de Henequen was without money, and was therefore unable to enter the sisal market and would not have been able to do so except for the financial assistance it received from and through the Eric Corporation and the Sisal Sales Corporation, as a result of negotiations carried on in the United States during the year 1921, as hereinbefore alleged. As a result of the agreements arrived at at such negotiations, and in view of arrangements made for money necessary to engage in the sisal business to be furnished by the said financial interests in the United States, the State of Yucatan enacted a law on December 13, 1921, which became effective on December 14, 1921, imposing a production tax of 8 centavos (4 cents U. S. gold) per kilo.

This tax with a Mexican Federal surtax of 50 per cent, charged on all State taxes, made the total tax 12 cents Mexican (6 cents U. S. gold) per kilo. This tax was to be collected by the Yucatan State Treasurer, and paid to the new Comision Reguladora del Mercado de Henequen to be used by the latter in the regulation of the

30 sisal market. The result was an artificial increase in the price of both fresh sisal and the stored sisal of the Eric Corporation in the United States. An English translation of this law is annexed hereto, marked "Exhibit E," and prayed to be considered a part hereof. Furthermore, as a part of its policy to regulate the sisal market, and as a result of the unlawful combination, conspiracy, and

agreements entered into in the United States among the defendants in this action, the State of Yucatan enacted a law on December 14, 1921, which became effective December 15, 1921, restricting the production of sisal from 15 to 50 per cent less than the quantity then being produced. The law provided that it should cease to be effective as soon as the stocks of sisal stored in the United States (at that time held by the Eric Corporation) were disposed of. The purpose of this act was to curtail production so that the stored sisal of the Eric Corporation in the United States might gradually be liquidated at a price in excess of what the normal and unrestrained competitive conditions at that time would have justified, and such legislation was in return for the financial assistance to be rendered by the Sisal Sales Corporation and its affiliated financial interests, and the contemplated purchase by the Comision Exportadora de Yucatan of the stocks of stored sisal held by the Eric Corporation, and in pursuance of agreements made. An English translation of this law is annexed hereto, marked "Exhibit F," and prayed to be considered a part hereof.

31 Notwithstanding the special taxes designated to close the open market in favor of the new Comision Reguladora del Mercado de Henequen, the independent buyers continued to purchase sisal in Yucatan, because the manufacturers preferred to pay a reasonable premium for fresh sisal rather than be forced to buy the stored sisal held by the Eric Corporation. The Comision Reguladora del Mercado de Henequen was not at this time buying sisal because its formal contract with the Sisal Sales Corporation had not yet been finally executed, although tentative agreements had been made.

(F) Contract of December 22, 1921

Further in pursuance of the negotiations carried on in the United States and in Mexico from time to time during the year 1921, and the tentative agreements and arrangements made during the same period, a formal contract in writing was entered into at the city of New York between the Sisal Sales Corporation and the Comision Reguladora del Mercado de Henequen on December 22, 1921. The contract is signed on behalf of the Sisal Sales Corporation by the defendant, Charles D. Orth, president of the Sisal Sales Corporation, and on behalf of the Comision Reguladora del Mercado de Henequen by the defendant, Tomas Castellanos Acevedo, attorney in fact for the Comision Reguladora del Mercado de Henequen. Among its provisions are the following:

(1) The Comision Reguladora del Mercado de Henequen appoints the Sisal Sales Corporation its general agent;

32 (2) The Sisal Sales Corporation shall act as exclusive selling agent in all of the markets of the world for the Comision Reguladora del Mercado de Henequen in connection with all sisal now owned or controlled by, or which may hereafter, during the

life of the contract, be owned or controlled by the Comision Reguladora del Mercado de Henequen;

(3) The Comision Reguladora del Mercado de Henequen may draw on the Sisal Sales Corporation at sight to pay for such purchases of sisal as the Comision Reguladora del Mercado de Henequen may make in Yucatan from time to time to cover actual sales which may be made by the Sisal Sales Corporation for the account of the Comision Reguladora del Mercado de Henequen;

(4) The Sisal Sales Corporation shall make all arrangements for the transportation of the sisal which it may sell for the account of the Comision Reguladora del Mercado de Henequen and shall endeavor to effect insurance upon the sisal from the time that the Sisal Sales Corporation is notified in New York by the Comision Reguladora del Mercado de Henequen that such sisal is under the control or at the risk of the Comision Reguladora del Mercado de Henequen;

(5) The Sisal Sales Corporation shall maintain not less than two representatives at Merida, Yucatan, one or more of whom shall be authorized to countersign for the purpose of authentication drafts drawn by the Comision Reguladora del Mercado de Henequen
33 on the Sisal Sales Corporation, and no draft shall be sold, negotiated, or forwarded for collection unless it has been countersigned as aforesaid by the duly authorized representative of the Sisal Sales Corporation;

(6) As compensation for its services specified in the contract, the Sisal Sales Corporation shall receive from the Comision Reguladora del Mercado de Henequen a commission of six per cent on the gross amount of all sales made by the Sisal Sales Corporation for the account of the Comision Reguladora del Mercado de Henequen;

(7) The contract shall be in effect for the term of five years from the date of its final ratification by both parties.

A copy of the above contract is annexed hereto, marked "Exhibit G," and prayed to be considered a part hereof.

(G) Sales by the Eric Corporation to Comision Exportadora de Yucatan and Sisal Sales Corporation

The new Comision Reguladora del Mercado de Henequen, by a letter dated December 22, 1921 (the same day that the formal contract was executed between the new Comision Reguladora del Mercado de Henequen and the Sisal Sales Corporation), signed by its agent and attorney in fact, Thomas Castellanos Acevedo, offered to purchase the entire stock of sisal owned by the Eric Corporation at a price equal to all outstanding obligations and liabilities of the Eric Corporation secured by such sisal. By a
34 letter of the same date, signed by the defendants, Frederick T. Walker and F. W. Black, as vice presidents of the Eric Corporation, the offer was accepted. The sale of such sisal was consummated on February 21, 1922, at a fixed price of 7 cents per pound.

On the same date, February 21, 1922, the Eric Corporation sold all of its other assets to the Sisal Sales Corporation to the amount of $610,555.22 in consideration of a note for the amount of $811,385.70, bearing 6½ per cent interest payable to the Equitable Trust Company of New York. Later these notes were substituted by consent of the pledgees for the notes of the Eric Corporation.

Both said transactions—i. e., the sale by the Eric Corporation of its sisal holdings to the Comision Exportadora de Yucatan (formerly the new Comision Reguladora del Mercado de Henequen) and the sale of its other assets to the Sisal Sales Corporation—were one and the same transaction, and no cash payments were involved. In both instances the purchasers gave promissory notes as full consideration, payable to the order of the Equitable Trust Company of New York. The only delay at this period was the obtaining of the formal consent of all of the pledgees—i. e., the interested banks—to the substitution of said new promissory notes for those of the Eric Corporation, and this was finally accomplished.

Pending receipt of this formal consent, all agreements and evidences of obligation were placed in escrow with the Corporation Trust Company of Delaware, which acted as trustee in the matter.

35 (H) Name of the New Comision Reguladora del Mercado de Henequen changed to Comision Exportadora de Yucatan

For various reasons, and particularly because of the fact that the old Comision Reguladora del Mercado de Henequen had previously been a defendant in a suit filed by the United States Government (in which suit the defendant, Lynn H. Dinkins, also was a defendant), the bankers and their associates in the United States, interested in the establishment of a sisal monopoly, considered it expedient to bring about a change in the name of the Comision Reguladora. They, therefore, registered their objections with the officials of said Comision, and, as a result, the State of Yucatan, by a decree on January 2, 1922, changed the name of the new Comision Reguladora del Mercado de Henequen to Comision Exportadora de Yucatan.

On the same day the State of Yucatan enacted a law exempting all sisal sold to the Comision Exportadora de Yucatan from the payment of a special state tax imposed by the law of December 13, 1921.

On the same day the Comision Exportadora de Yucatan began buying sisal from the Yucatan planters at 4 cents per pound, drawing on the Sisal Sales Corporation.

36 The Mexican Federal Government had by a decree which became effective on Junuary 1, 1922, reduced the Federal surtax on all state taxes from 50 per cent to 25 per cent. This made the discriminatory tax in favor of the Comision Exportadora de Yucatan amount to 8 cents Mexican plus 2 cents Mexican per

kilo, or a total of 10 cents Mexican per kilo, which is equal to about 2¼ cents U. S. gold per pound.

On or about January 6, 1922, in pursuance of the unlawful agreements made in the United States as hereinbefore set forth, an agreement was made between the Comision Exportadora de Yucatan and the Comision Reguladora del Mercado de Henequen of Campeche whereby the sales of sisal of the Campeche institution are consolidated with those of the Comision Exportadora de Yucatan, the latter institution drawing on the Sisal Sales Corporation for the money it advances to the Campeche institution with which it purchases sisal from the Campeche farmers, and such sisal is imported into the United States and sold therein by the Sisal Sales Corporation exclusively.

(I) Additional discriminatory tax imposed by the Yucatan State Government on March 7, 1922

Even after the Comision Exportadora de Yucatan began purchasing sisal on January 2, 1922, independent buyers continued to purchase, paying the 2¼ cents U. S. gold per pound discriminatory tax. In order to completely insure against the further purchase of sisal in Yucatan by independent buyers, the State Government of Yucatan, on March 7, 1922, in pursuance of agreements made
37 in the United States between Tomas Castellanos Acevedo and his associates and officials of the Sisal Sales Corporation, and as a result of the efforts on the part of the said Castellanos and his associates, imposed an additional special tax of 4 cents Mexican per kilo, which with the Mexican Federal surtax of 25 per cent would amount to 5 cents Mexican per kilo (or about 1⅛ cents U. S. gold per pound), all sisal held by or delivered to the Comision Exportadora de Yucatan being exempted from such tax. An English translation of this law is annexed hereto, marked "Exhibit H," and prayed to be considered a part hereof.

This made the total discriminatory taxes in favor of the Comision Exportadora de Yucatan, including the Federal surtax of 25 per cent, amount to 15 cents Mexican per kilo (approximately 3⅜ cents U. S. gold per pound). The immediate result was to put independent buyers out of business, causing them to close their offices and return to the United States, thus perfecting a complete monopoly in Mexican sisal. Shortly thereafter the Comision Exportadora de Yucatan began paying the Yucatan producer 3½ cents per pound instead of 4 cents per pound for sisal. Sisal was then being sold by the Sisal Sales Corporation in the United States at 6¼ cents Gulf (6½ N. Y.) per pound.

(J) Stored sisal of Comision Monetaria sold to Comision Exportadora de Yucatan

In December, 1922, there was still a considerable quantity
38 (approximately 101,461 bales) of stored sisal in the United States pledged to the Eric Corporation, in which the Comi-

sion Monetaria had an equitable interest. This sisal had been withheld from the market for more than one year. Through the influence of the Sisal Sales Corporation, the Eric Corporation, and the interested banks, and for the purpose of protecting the Eric Corporation from losses which unrestrained competition would have necessitated and of insuring to the Sisal Sales Corporation a complete control of the trade and commerce in sisal in the United States, an agreement was reached whereby the Comision Exportadora de Yucatan finally purchased this sisal on or about December 22, 1922, for the sum of $3,488,268.53, pledging such sisal to The Equitable Trust Company of New York, the payments to be made by the Sisal Sales Corporation out of the funds obtained from sales of sisal for the account of the Comision Exportadora de Yucatan; and as a part of such agreement the Mexican Federal Government suspended the imposition of the Federal export tax of 2 cents Mexican per kilo (about ½ cent U. S. gold per pound) on sisal for the year 1923.

(K) Contract between Sisal Sales Corporation and New York and Cuba Mail Steamship Company

In order to impede and prevent any competitor from importing sisal from Yucatan into the United States, the Sisal Sales Corporation entered into a contract with the New York and Cuba Mail Steamship Company, the only line regularly operating
39 vessels for the carrying of freight between ports of the United States and the ports of Progreso and Campeche, under the terms of which the said steamship company was to transport sisal exclusively for the Sisal Sales Corporation. This contract was dated May 12, 1923, became effective June 1, 1923, and was to remain in effect for one year from that date. During the life of said contract the steamship company regularly refused to transport shipments of sisal tendered by competitors of the Sisal Sales Corporation, and such refusals have been made since.

A receiver was appointed for the said steamship company on December 31, 1923, and the contract was cancelled by him on or about February 15, 1924.

(L) Contract of June 19, 1923, between the Sisal Sales Corporation and the Comision Exportadora de Yucatan

Further in pursuance of the hereinbefore alleged combination, conspiracy, and monopoly, and to effect the object of the same, a contract was entered into at New York City, in the Southern District of New York, June 19, 1923, between the Sisal Sales Corporation and the Comision Exportadora de Yucatan. Said contract is supplemental to the contract dated December 22, 1921, between the Sisal Sales Corporation and the new Comision Reguladora del Mercado de Henequen.

By this contract the Sisal Sales Corporation's commission on all sales for the account of the Comision Exportadora de Yucatan
40 was reduced from 6 per cent to 3 per cent beginning June 1, 1923. In addition, the Sisal Sales Corporation agreed to lend the Comision Exportadora de Yucatan a sum not exceeding $1,500,000 to enable it to make loans to the planters. Said loans are to be made in instalments not exceeding $100,000 per month from July to December, 1923, inclusive, and not exceeding $180,000 per month from January to May, 1924, inclusive. The notes are to mature on the 15th day of each month commencing July 15, 1924, and ending September 15, 1925. Interest is provided at 8 per cent. The loans are to be evidenced by notes secured by notes of the planters, which notes are assigned to the Sisal Sales Corporation and constitute a first lien on the plantations.

A copy of this contract is annexed hereto marked Exhibit I, and prayed to be considered a part hereof.

VII

THE RESULTS

As the result of the aforesaid unlawful combination, conspiracy, and monopoly, and the several acts and things done in pursuance thereof, the defendants have acquired and now enjoy a complete monopoly of the interstate and foreign trade and commerce of the United States in sisal. The Comision Exportadora de Yucatan, with the financial backing of the Sisal Sales Corporation, has become the sole purchaser of sisal from producers in Mexico. The Sisal Sales Corporation has become the sole importer and
41 distributor of Mexican sisal in the United States. Binder twine manufacturers and brokers who formerly competed with one another for the purchase of sisal in Mexico and in the United States and enjoyed the advantage resulting from such competition as existed among the sellers now are compelled to obtain all of their requirements from the Sisal Sales Corporation. Thus the trade and commerce of the planters, the brokers, and the manufacturers is restrained and prices are arbitrarily fixed by the defendants.

The defendants, by establishing unwarranted prices for new sisal and by restricting the production thereof, and by compelling manufacturers of binder twine, in their purchases of fresh sisal, to accept and use large quantities of the surplus sisal formerly owned by the Eric Corporation, much of which was of inferior quality, at prices far in excess of those warranted by normal and unrestrained competitive conditions, have thus disposed of said large stocks of stored sisal at the expense of the manufacturers of binder twine and the farmers who use the same. Interstate and foreign trade and commerce in sisal has been and is being burdened and restrained by the

exaction of large sums in the form of excessive profits and commissions, resulting in the undue enhancement of prices.

About one million bales (375 to 400 pounds per bale) were shipped from Yucatan and sold in the United States in the years 1922 and 1923. The average profit realized by the Comision Exportadora de Yucatan and the Sisal Sales Corporation was about
42 2 cents per pound, which is about 1¾ cents per pound in excess of the usual profit charged by independent sisal dealers under competitive conditions. This amounts to a total profit of approximately $8,000,000, which means that during those two years an excessive profit on fresh sisal of approximately $7,000,000 was paid to said defendants by the binder-twine manufacturers and ultimately by the farmers of the United States, and without the farmers of Yucatan receiving any part of such sum.

In November, 1921, the Eric Corporation quoted and sold some of its stored sisal at a price of 2¾ cents, Gulf. In January, 1922, less than two weeks after the execution of the contract between the Sisal Sales Corporation and the Comision Reguladora del Mercado de Henequen (now the Comision Exportadora de Yucatan) and less than sixty days after the sale of sisal by the Eric Corporation at 2¾ cents Gulf per pound, the price of sisal was raised to 6½ cents Gulf (6¾ cents New York) per pound. During the years 1922 and 1923 the Sisal Sales Corporation reserved the right to deliver from twenty-five to fifty per cent of the stored sisal formerly held by the Eric Corporation on all orders, and during a large part of that period it was impossible for binder-twine manufacturers in the United States to secure fresh Mexican sisal without being forced by the Sisal Sales Corporation to accept with each purchase a considerable quantity of stored sisal.

On December 22, 1921, the day of the execution of the for-
43 mal contract between the Sisal Sales Corporation and the Comision Reguladora del Mercado de Henequen (now the Comision Exportadora de Yucatan), the Eric Corporation agreed to sell, and shortly thereafter did sell, to said Comision its stored sisal at a price of 7 cents per pound. While such stored sisal was subsequently sold during the years 1922 and 1923 by the Sisal Sales Corporation for the account of the Comision Exportadora de Yucatan to manufacturers in the United States at a price of from 6 cents Gulf to 6½ cents Gulf per pound, thus showing a loss by the Comision Exportadora de Yucatan on said transaction, which loss was more than overcome by the excessive profit on fresh sisal, the Eric Corporation and its affiliated banks greatly profited thereby; and the Sisal Sales Corporation, controlled by the same interests as the Eric Corporation, received, in addition to the interest on its loans to the Comision Exportadora de Yucatan, a commission of six per cent on the gross sales of such sisal.

On the gross sales of both fresh and stored sisal for the account of the Comision Exportadora de Yucatan, which, during the year 1922,

amounted to more than $15,000,000, the Sisal Sales Corporation, receiving a commission of 6 per cent on such sales, obtained in that one year, exclusive of the interest on its advances of money to the Comision Exportadora de Yucatan, a profit of more than $900,000 upon an investment represented by a capital stock of only $1,500. In the year 1923 its sales amounted to nearly $20,000,000 and its total profits were as great as those of the preceding year.

44 In the year 1924 the Sisal Sales Corporation raised the price of sisal in the United States to 7½ cents per pound and is now executing contracts with manufacturers for the sale of sisal at such price.

PRAYER

Wherefore, petitioner prays that writs of subpœna be issued, directed to each of the defendants, commanding them to appear herein and answer, but not under oath (answer under oath being hereby expressly waived) the allegations of the petition, and to abide by such orders and decrees as the court may make in the premises.

And further that the court adjudge and decree:

1. That the defendants in the manner and by the means hereinabove described have been and are engaged in an unlawful combination, conspiracy, or agreement to restrain interstate and foreign trade and commerce in sisal and to increase throughout the United States the market price of sisal as an article imported or intended to be imported into the United States, and have monopolized and are attempting to monopolize such interstate and foreign trade and commerce, and that the hereinabove described contracts dated December 22, 1921, and June 19, 1923, are contracts in restraint of such interstate trade and commerce, in violation of the antitrust laws of the United States, particularly the "Act to protect trade and commerce against unlawful restraints and monopolies," approved July
45 2, 1890, and section 73 of the act commonly known as the Wilson Tariff Act of August 27, 1894, as amended by the act of February 12, 1913.

2. That the defendants and each of them, the officers, directors, and agents of the Sisal Sales Corporation, and the representatives and agents of the Comision Exportadora de Yucatan in the United States, and all other defendants heretofore named, be perpetually enjoined from doing any act in pursuance of or for the purpose of carrying out the above-described combination, conspiracy, monopoly, and contracts, and from entering into or continuing any similar combination, conspiracy, monopoly, and contracts, and from combining, conspiring, or agreeing to restrain interstate and foreign trade and commerce in sisal or to increase the price of sisal in the United States, and from monopolizing or attempting to monopolize, or combining or conspiring to monopolize, interstate and foreign trade and commerce in sisal.

3. That the Sisal Sales Corporation is an instrumentality created to carry into effect the purpose of the combination, conspiracy, or agreement hereinbefore described, in violation of the antitrust laws of the United States, and that it be enjoined from engaging directly or indirectly in interstate trade and commerce within the United States or in trade and commerce between the United States and foreign nations under the contracts and arrangements herein alleged or any other contracts or arrangements having a like purpose.

46 4. That the contract of December 22, 1921, between the Sisal Sales Corporation and the Comision Reguladora del Mercado de Henequen (now Comision Exportadora de Yucatan) and supplemental contract of June 19, 1923, between the Sisal Sales Corporation and the Comision Exportadora de Yucatan be declared null and void, and that each of the defendants be enjoined and restrained from further carrying out the same.

5. That the petitioner have such other, further, and general relief as the nature of the case may require and the court deem just.

UNITED STATES OF AMERICA,
By WM. HAYWARD,
United States Attorney.

HARLAN F. STONE,
Attorney General.
AUGUSTUS T. SEYMOUR,
Assistant to the Attorney General.
J. A. FOWLER,
ABRAM F. MYERS,
MILLER HUGHES,
Special Assistants to the Attorney General.

Exhibit A to petition

Agreement made this 23rd day of January, 1920, by and between Eric Corporation, a corporation of the State of Delaware, party of the first part; and Comision Reguladora del Mercado de Henequen, a corporation of the State of Yucatan, Republic of

47 Mexico (hereinafter called the Comision), party of the second part:

Witnesseth, that for and in consideration of the mutual covenants herein contained the parties hereto agree as follows:

1. Eric Corporation agrees forthwith to cause its present authorized common capital stock, amounting to $100,000, to be paid in full in cash and to increase the amount of its authorized common stock from $100,000, as at present, to $200,000.

2. Immediately upon the completion of such increase in the amount of its authorized capital stock as aforesaid, and upon notice thereof duly given to the comision in writing, addressed to it at its office, No. 120 Broadway, New York City, the comision shall have the privilege, for a period of forty-five (45) days from the date of this agreement, of subscribing and paying for in cash, $99,000 par value

of the common capital stock of Eric Corporation represented by the amount of the increase in the authorized capital stock of Eric Corporation as aforesaid.

3. Eric Corporation represents that on December 31, 1919, for the aggregate sum of $6,738,395.70 it purchased from The Equitable Trust Company of New York and The Royal Bank of Canada (1) approximately 249,000 bales of sisal formerly pledged with said two institutions by the comision as security for loans made by them to the comision and acquired by said two institutions in accordance with the terms of said pledge; and (2) certain claims against the comision in favor of said two institutions secured by the assignment by the comision of certain invoices and contracts, said claims together aggregating the principal sum of $1,758,495.70, which
48 includes interest to December 31, 1919, said claims representing the unpaid balance due on said loans to said two institutions from the comision, the remainder of said loans having been paid out of the collateral security therefor and otherwise, which said claims Eric Corporation hereby agrees to cancel and release in favor of the comision, Eric Corporation retaining, however, the assigned invoices and contracts now held as security for said claims.

4. The comision hereby agrees forthwith to sell and deliver, free and clear of all encumbrances, and Eric Corporation agrees to buy, all the sisal, aggregating approximately 150,000 bales, now pledged with Samuel T. Murdock, of Indianapolis, Indiana, and the Interstate Trust & Banking Company, of New Orleans, Louisiana, and associates, at a price of $25.00 per bale, payment to be made in the promissory notes or other written evidences of indebtedness of Eric Corporation bearing interest at the rate of 6 per cent per annum.

5. The comision hereby sells and delivers, and Eric Corporation hereby buys, all sisal now owned or held by the comision in the States of Yucatan and Campeche, Mexico, aggregating approximately 250,000 bales, the same to be paid for on a basis of $25.00 per bale f. o. b. United States gulf ports. It is understood and agreed that title to said sisal shall pass to Eric Corporation immediately upon the execution of this agreement. Said sisal shall be stored while in Yucatan and Campeche free of charge by the comsion, and while so stored shall be definitely and clearly set aside and marked as the property of Eric Corporation. Said sisal shall be transported by the comision, at its sole expense, to United States gulf ports when and as called for by Eric Corporation, and
49 payment therefor, or any part thereof, shall be made only upon arrival at United States gulf ports as aforesaid in the medium hereinafter in paragraph 7 hereof more particularly described. Said sisal while in storage and in transit as aforesaid shall be at the sole risk of the comision, it being definitely understood and agreed that there shall be no obligation on the part of Eric Corporation to pay for any sisal unless and until it is received by Eric Corporation at United States gulf ports as aforesaid. As a condition

precedent to payment as aforesaid all of such sisal shall be inspected and graded so that its average quality shall equal the sisal referred to in paragraph 3 hereof.

6. When and as the sisal mentioned in the next preceding paragraph shall be delivered to Eric Corporation in the United States as therein provided, Eric Corporation will procure to be advanced in cash, for account of the comision, the amount necessary to pay storage, hauling and freight charges from Merida or Campeche to the port of delivery in the United States, and all Mexican federal export taxes which may have been levied upon said sisal, the entire amount of such advance not to exceed two cents per pound upon the sisal so delivered. Interest at the rate of 7 per cent per annum shall be paid on said advances, and as security for the said advances the comision shall give the preferred capital stock of Eric Corporation, which is to be issued by the latter and acquired by the comision of Eric Corporation, as set forth in the paragraph next following, the amount of any or all of said advances in no case to exceed 90 per cent of the face value of said stock offered as collateral security therefor.

50 7. The purchase consideration for all sisal purchased and sold pursuant to paragraph 5 hereof shall be paid in full-paid nonassessable 7 per cent cumulative preferred capital stock of Eric Corporation at its par value. Said preferred capital stock shall be without voting power and shall contain a provision providing for its retirement at par in units of $200,000 out of sinking fund to be established as set forth in paragraph 8 hereof, if and whenever the funds in said sinking fund aggregate said amount.

8. Out of the proceeds of all sales of sisal hereafter made by it, and so long as any of said preferred stock shall remain outstanding, Eric Corporation shall pay into a special sinking fund the sum of $8.33\frac{1}{3}$ per bale from all sisal sold and paid for, said sinking fund to be established for the purpose of retiring at par the preferred capital stock of Eric Corporation, as set forth in paragraph 7 hereof.

9. Eric Corporation shall have the privilege of forming a corporation under the laws of such jurisdiction as Eric Corporation shall select, for the purchase of sisal in the States of Yucatan and Campeche, Mexico, all of the capital stock of which, except the directors' qualifying sharees, shall be owned by Eric Corporation, or may contract with any corporation for this service.

10. Eric Corporation agrees to use its best endeavors to assist the comision in obtaining funds necessary to pay approximately $600,000 obligation of the comision due on or about February 1, 1920.

11. It is agreed that the expenses for the present offices and for such force as is necessary for the maintenance of the New York representatives of the comision shall be assumed by Eric Cor-

51 poration as of March 1, 1920, or earlier if convenient, the expense of the comision's representation in the same, aside from rent, not to exceed in amount the sum of $12,000 per annum.

12. It is understood that Eric Corporation is to send as promptly as possible representatives to Yucatan for the purpose of assisting the comision in carrying out in good faith the intents and purposes of this agreement.

13. This agreement shall not be binding upon either of the parties hereto unless and until it shall be formally executed and delivered by both of the parties hereto.

In witness whereof the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

ERIC CORPORATION,
By F. W. BLACK, *Vice President.*

Attest:

LYNN H. DINKINS, *Secretary.*
COMISION REGULADORA DEL
MERCADO DE HENEQUEN,
By ARTURO ZAVALLA and
RICARDO MOLINA, *Attorneys in fact.*

STATE OF NEW YORK,
County of New York, ss:

On this 26 day of January, in the year one thousand nine hundred and twenty, before me personally came F. W. Black, to me known, who, being by me duly sworn, did depose and say that he
52 resides in Brooklyn, New York; that he is the Vice Pr. of Eric Corporation, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name thereto by like order.

ISABEL W. BONNER,
Notary Public.

No. Co. #196.
STATE OF NEW YORK,
County of New York, ss:

On this 26 day of January, in the year one thousand nine hundred and twenty, before me personally came Arturo Zavalla and Ricardo Molina, the attorneys for Comision Reguladora del Mercado de Henequen, to me known and known to me to be the persons described in and who as such attorneys executed the foregoing instrument, and acknowledged that they executed the same as the act and deed of said Comision Reguladora del Mercado de Henequen therein described by virtue of a power of attorney bearing date the —— day of ——.

ISABEL W. BONNER,
Notary Public.

No. Co. #196, Registers Office No. 10036. Comn. Exp. March 25, 1920.

53 MERIDA, *February 21st, 1920.*

COMISION REGULADORA DEL MERCADO DE HENEQUEN, *City.*

GENTLEMEN: Referring to the agreement between our respective corporations dated as of the 23d day of Jany., 1920, we hereby make the following proposals:

(1) With respect to the storage charges on the sisal acquired by us under said agreement while said sisal is stored in the States of Yucatan and Campeche, Mexico, which charges you have under said contract agreed to assume and pay, for good and valuable considerations, Eric Corporation hereby agrees to require you to assume and pay only such of said charges as are accrued or which shall accrue during a period of one year from the date hereof; Eric Corporation agrees to assume and pay for all of the said charges which shall accrue after the expiration of said period.

(2) With respect to all existing obligations of Eric Corporation issued for the purchase of sisal, for good and valuable considerations, we hereby agree to procure the payment of said obligations to be extended for a period of at least one year from the date hereof.

(3) Should the Reguladora at any time within one year from date hereof desire loans to be made to it not exceeding six hundred thousand dollars secured by pledge of the preferred stock, on a basis of ninety per cent of its par value and at a rate not exceeding eight per cent interest, the Eric Corporation will arrange such loans provided they shall be paid protanto from funds of the Reguladora which may at any time be in the custody of the Eric Corporation arising
54 from the sale of the sisal now stored in the United States of America, which funds the Eric Corporation is authorized to retain for such purpose.

Your acceptance hereof, if and when affixed in writing hereto, shall constitute a binding agreement between our respective corporations.

ERIC CORPORATION,
By LYNN H. DINKINS, *Secty.*
COMISION REGULADODA DEL MERCADO DE HENEQUEN,
By JAUN LOPEZ PENICHE,
Gen. Manager.

Referring to the agreement made the 23 day of January, 1920, between Eric Corporation, a corporation of the State of Delaware, party of the first part, and Comision Reguladora del Mercado de Henequen, a corporation of the State of Yucatan, Republic of Mexico (hereinafter called the comision), party of the second part, We the undersigned, constituting all the stockholders of Eric Corporation, for and in consideration of the subscription to the capital stock of Eric Corporation contemplated by said agreement to be made by the comision, and in consideration of the mutual agreements herein contained, hereby jointly and severally agree among ourselves and with

the comision that if and when the comision shall subscribe and pay for the $99,000 par value of the common capital stock of Eric Corporation, as provided in the paragraph marked 2 of said agreement, we, as stockholders of Eric Corporation, will so vote our stock and do and perform all other things reasonable and necessary in order to elect to the Board of Directors of Eric Corporation such representatives of the comision as the comision shall nominate therefor, so as to give the comision a representation on said board equal to one member less than the majority of said board of directors.

In witness whereof the parties hereto have executed these presents, or caused the same to be executed by their respective officers thereunto duly authorized, as of the 9th day of January, 1920.

THE ROYAL BANK OF CANADA,
By F. T. WALKER, *Agent.*
THE EQUITABLE TRUST COMPANY OF NEW YORK,
By H. M. WALKER, *Vice Pres.*
INTERSTATE TRUST & BANKING COMPANY,
By LYNN H. DINKINS, *President* (L. S.),
COMISION REGULADORA DEL MERCADO DE HENEQUEN,
By ARTURO ZAVALA and
RICARDO MOLINA,
Attorneys in fact.

Exhibit B to petition

This agreement, made and entered into this twentieth day of April, 1921, by and between Comision Monetaria, of the City of Mexico, D. F., a commission organized and existing under the laws of the Republic of Mexico, legally represented by its manager, Mr. Santana Almada, party of the first part, and Eric Corporation, a corporation organized and existing under the laws of the State of Delaware, United States of America, legally represented by its vice president, Mr. John B. Glenn, party of the second part.

Witnesseth:

In consideration of the mutual promises hereinafter set forth the parties hereto hereby agree each with the other as follows:

First. Eric Corporation hereby agrees to loan to Comision Monetaria, upon the terms hereinafter set forth, such amounts of money as may from time to time, prior to the expiration of a period of two years from the date of this agreement, be necessary in order to enable the Comision Monetaria to purchase in the open market sisal currently produced in the States of Yucatan and Campeche, Mexico, at such price per pound as may from time to time be agreed upon between Eric Corporation and Comision Monetaria as hereinafter provided.

Second. Each advance made by Eric Corporation to Comision Monetaria as aforesaid shall be paid over to Comision Monetaria in gold coin of the United States and/or by sight drafts on New York payable in currency of the United States of America, at Merida, Yucatan, in exchange for a promissory note or notes of the Comsion Monetaria payable to the order of the Eric Corporation at the office of the Eric Corporation in the city of New York, United States of America, in currency of the United States of America, of an aggregate principal amount equal to the amount so advanced. Each and every of the aforesaid promissory notes of the Comision Monetaria shall be secured by the delivery to the Eric Corporation in pledge as collateral security therefor of negotiable warehouse receipts covering the sisal against the purchase of which by the Comision Monetaria the advance evidenced by such promissory note
57 shall have been made, and each and every of such promissory notes shall be payable on demand and shall bear interest at the rate of eight per cent (8%) per annum payable monthly.

Third. The amounts from time to time to be advanced by the Eric Corporation to the Comision Monetaria as hereinabove provided shall be at such price per pound for sisal purchased as shall from time to time be agreed upon between the Eric Corporation and the Comision Monetaria. The initial rate at which such advances shall be made, so long as such rate shall be satisfactory to both the Eric Corporation and the Comision Monetaria as aforesaid, shall be five and one-quarter cents (5¼¢) per pound, f. o. b. Progresso, Yucatan.

Fourth. Comision Monetaria does hereby irrevocably make, constitute, and appoint the Eric Corporation the agent of the Comision Monetaria to sell all of the sisal against which such advances shall have been made by the Eric Corporation as hereinabove provided, at such price or prices as may be fixed jointly by the Eric Corporation and the Comision Monetaria, and the Comision Monetaria does hereby agree to pay to the Eric Corporation a selling commission of one-quarter of one cent ($0.0025) United States currency per pound upon all sisal sold by the Eric Corporation as such agent, such commission to be deducted from the account sales and retained by the Eric Corporation out of the selling price of the sisal.

Fifth. The Comision Monetaria hereby authorizes the Eric Corporation to make all necessary arrangements to transport the sisal purchased by the Comision Monetaria as hereinabove provided to whatever place or places the Eric Corporation may deem desir-
58 able; to store the same when, where and as the Eric Corporation may determine; and to cover the same with insurance; and the Comision Monetaria hereby agrees to reimburse the Eric Corporation monthly, on the 15th day of each month, at Mexico City, Mexico, in gold coin of the United States of America and/or sight draft on New York payable in currency of the United States of America; and/or at the office of the Eric Corporation in New York City in currency of the United States of America, all at the option of the Eric Corporation, for all expenditures made by the Eric Cor-

poration during the preceding month in connection with the handling, transportation, storage or insurance of, or other expenses incurred in connection with, all sisal purchased by the Comision Monetaria as hereinabove provided, including all expenses of the organization maintained by the Eric Corporation in Yucatan and Campeche in connection with the purchase of such sisal. It is understood that all export duties or other taxes assessed against the sisal purchased by the Comision Monetaria hereunder will be paid by the Comision Monetaria. If any of such duties or taxes should, however, be paid by the Eric Corporation, the Comision Monetaria agrees to reimburse the Eric Corporation for any amounts so paid, monthly in the manner aforesaid.

Sixth. It is understood and agreed that the Eric Corporation shall have full power to negotiate by pledge, sale, or otherwise all promissory notes of the Comision Monetaria delivered to the Eric Corporation hereunder and to rehypothecate the sisal pledged to secure the same.

Seventh. This agreement shall be binding upon and shall enure to the benefit of the successors and assigns of the parties hereto.

59 In witness whereof both contracting parties ratify each and all of the foregoing clauses, signing this contract in duplicate, on the 20th day of April, 1921.

COMISION MONETARIA,
By E. VON BORSTEL,
SANTANA ALMADA,
ERIC CORPORATION,
By JOHN B. GLENN.

Conforme:
ADOLFO DE LA HUERTA.

Exhibit C to petition

Agreement made the twelfth day of September, nineteen hundred and twenty-one, between Eric Corporation, a corporation duly organized under the laws of the State of Delaware, hereinafter called the "company," and Hanson & Orth, a copartnership composed of Charles D. Orth, Michael J. Smith, and Charles D. Orth, jr., hereinafter called the "partnership."

Whereas the company is the owner of a large amount of sisal and desires the cooperation of the partnership in marketing it,

Now, therefore, It is hereby mutually agreed by and between the parties hereto as follows:

I. The partnership shall become the general managers of the business of the company in the manufacture, sale, vending, and disposing of its sisal or the products thereof in accordance with and in consideration of stipulations and terms hereinafter following.

II. In managing said business the partership shall use its

60 best endeavors and skill and all necessary time to procure the

greatest possible sale of all such sisal, whether in its raw state or a
a manufactured product.

III. All contracts shall be signed by the company, and all war
house receipts and other documents connected with the property
business of the company shall be in its name.

IV. The general policy to be followed in marketing said sisal or i
products and the amounts in which, and the prices at which, sa
sisal or the products thereof shall from time to time be sold, shall
every case be subject to the approval and under the exclusive contr
of the company, but the general policy so adopted and the sales
made shall be executed by the partnership on behalf of the compan

V. Full information of all details connected with the business
the company and all conditions prevailing in other markets affectin
the sisal trade shall be available to the company from the partnershi

VI. At the option of the company its routine office work may
transferred to the offices of the partnership, in which event su
routine work as stenography and bookkeeping shall be done by t
staff of the partnership without additional charge, but all travelin
expenses, hotel bills, telephone, telegraph, cable expenses, &
incurred in connection with the said business, shall be paid by t
company, it being the intent that the expenses of the partnership
connection with the said business shall be limited to its own offi
and office staff.

Both the company and the partnership, or their respective agent
shall at all reasonable times have access to the books of accou
61 or other records of the company, which shall be maintain
or kept by either party to this agreement.

VII. In consideration of the true and faithful performance of t
covenants herein contained by the partnership, the company sha
pay or cause to be paid to the partnership the sum of fifty thousan
dollars ($50,000) per annum, commencing on the first day of Septe
ber, nineteen hundred and twenty-one, payable in equal monthly i
stalments of $4,166.67 each on the last day of September, ninete
hundred and twenty-one, and on the last day of each and eve
month thereafter during the term of this agreement; and, except
hereinafter provided, in addition a commission of one per cent (1
on the sale price of all sisal or other merchandise now owned by t
company, sold by the company subsequent to the first day of Septe
ber, nineteen hundred and twenty-one, and during the terms of th
agreement, whether it be sold in the form of raw material or as
manufactured product, and whether sold through the partnership
otherwise; said commission to be due and payable from time to ti
as and when the sale price of any such merchandise is received by t
company. It is understood and agreed, however, that in the eve
that the company shall, subsequent to September 1, 1921, and prior
September 30, 1921, sell all of the sisal or other merchandise the
owned by it in one lot, en bloc, then in such event the company sha

pay to the partnership a commission of one-half of one per cent instead of one per cent on the sale price of the sisal or other merchandise so sold.

The company shall keep correct books of account of all sales receipts, which books shall be open to the inspection of the part-
62 nership or its agents at all reasonable times. The company shall render statements to the partnership of such sales receipts whenever so requested by the partnership.

VIII. The term of this contract shall commence on the first day of September, nineteen hundred and twenty-one, and continue until all of the sisal or products thereof now owned by the company is sold either in its raw state or as a manufactured product, when, at the option of the company by written notice to the partnership, this agreement shall terminate.

In witness whereof, the parties hereto have signed and sealed this agreement.

ERIC CORPORATION,
By F. T. WALKER,
Vice Pres.
A. E. SCHEITHE,
Secy. and Treas.
HANSON & ORTH,
By MICHAEL J. SMITH,
Partner.

Exhibit D to petition

This agreement made and entered into this 1st day of April, 1924, by and between Sisal Sales Corporation, a corporation organized and existing under the laws of the State of Delaware (hereinafter referred to as the "corporation"), party of the first part, and Charles D. Orth, Michael J. Smith, and Charles D. Orth, jr., copartners doing business under the firm name and style of Hanson & Orth (hereinafter referred to as the "partnership"), parties of the second part,

63 Witnesseth:

Whereas the corporation is acting as sole general agent for the Comision Exportadora de Yucatan, an institution created by act of the Legislature of the State of Yucatan, Mexico, in connection with the sale of sisal hemp pursuant to an agreement between the corporation and said Comision Exportadora de Yucatan, dated December 22, 1921, and an agreement between the same parties supplemental thereto dated June 19, 1923, for a term of five years from the 31st day of December, 1921, and the corporation desires to engage the services of the partnership as general managers of the business of the corporation during the continuation of the aforesaid contract between the said Comision Exportadora de Yucatan and the corporation dated December 22, 1921, as modified by said

agreement supplemental thereto, and the partnership is willing to act as such general managers upon the terms hereinafter set forth:

Now, therefore, in consideration of the premises and of the mutual promises hereinafter set forth, the parties hereto do hereby respectively covenant and agree each with the other as follows:

I. The corporation hereby agrees to employ, and does hereby employ, the services of the partnership as general managers of the business of the corporation, as general agent of the Comision Exportadora de Yucatan, so long as the corporation shall act as general agent for the Comision Exportadora de Yucatan under the terms of the aforesaid contract between said Comision Exportadora de Yucatan and the corporation, dated December 22, 1921, as modified by said agreement dated June 19, 1923, and the partnership
64 hereby agrees to act as such general manager during such period, all upon the terms and conditions hereinafter set forth.

II. In managing the business of the corporation the partnership will at all times use its best endeavors and skill and give all necessary time and attention to selling all sisal which the corporation may desire to sell, either for its own account or otherwise; to oversee the preparation of all account sales and other accounts which the corporation may be required to render; to make all arrangements for the storage and insurance of sisal which the corporation may be required to make; to keep said Comision Exportadora de Yucatan advised regarding the fiber markets of the world; and generally to supervise and assist the corporation in carrying out all of the terms and conditions of said contract between said Comision Exportadora de Yucatan and the corporation dated December 22, 1921, as modified by said agreement dated June 19, 1923, on the part of the corporation to be performed.

III. The general policy to be followed in transacting the business of the corporation shall in every case be subject to the approval and under the exclusive control of the directors of the corporation. The routine work of stenography and bookkeeping shall be done by the staff of the partnership, under the direction of the officers of the corporation, without charge, but all traveling expenses, hotel bills, telephone, telegraph, cable, and other expenses incurred by the partnership in connection with the business of the corporation shall be paid by the corporation, it being expressly understood and agreed that under no circumstances is the partnership to assume any liability, as principal or otherwise, except as to the expenses here-
65 inabove expressly set forth. Both the partnership and the corporation or their respective agents shall at all reasonable times have access to the books of account and other records of the corporation.

IV. In consideration of the true and faithful performance of the covenants herein contained on the part of the partnership to be performed, the corporation will pay or cause to be paid to the partnership a commission of one per cent (1%) on the sales price of all sisal

sold by the corporation from and after the date of this agreement and until its termination as hereinafter provided.

V. From and after the date hereof, this contract shall continue in full force and effect so long as the corporation shall act as selling agent for the Comision Exportadora de Yucatan under the terms of the aforesaid agreement between the corporation and said Comision Exportadora de Yucatan dated December 22, 1921, as modified by said agreement dated June 19, 1923, but in the event that this corporation shall at any time cease to act as selling agent for said Comision Exportadora de Yucatan under said agreement dated December 22, 1921, as modified by said agreement dated June 19, 1923, either before or at the time of the termination of said agreement dated December 22, 1921, by lapse of time, then this agreement shall forthwith terminate, but the termination of this agreement shall not affect any rights or liabilities of either of the parties hereto which shall have arisen hereunder prior to the date of such termination.

VI. The partnership hereby acknowledges receipt of all sums payable to it by the corporation on account of services rendered by the partnership prior to April 1, 1924, and of all commissions or
66 other compensation payable to it by the corporation in connection with the sale of sisal delivered prior to April 1, 1924.

In witness whereof, the parties hereto have signed and sealed this agreement as of the day and year first above written.

SISAL SALES CORPORATION,
By F. W. BLACK, *Vice President.*
F. T. WALKER, *V. P.*

Attest:

EDGAR JEWELL, *Secretary.*
HANSON & ORTH.
By CHAS. D. ORTH,
MICHAEL J. SMITH,
CHARLES D. ORTH, Jr.

Exhibit E to petition

A SPECIAL EXTRAORDINARY TAX OF EIGHT CENTS, NATIONAL CURRENCY, FOR EACH KILOGRAM IS IMPOSED ON RAW HEMP

Decree No. 361

I, Licenciate Manuel Berzunza, provisional constitutional governor of the free and sovereign State of Yucatan, make known to the inhabitants thereof the following:

The Hon. XXVI Congress of the free and sovereign State of Yucatan, in the name of the people, decrees:

Article first. For the protection and defense of the hemp industry in the State and of its trade, there is imposed on raw hemp a
67 special extraordinary tax of eight cents, national currency, for each kilogram. This tax shall be paid by the fibre producers,

who shall not be able to sell it without previously proving that they have duly made payment thereof. There is included in this tax all hemp which has been produced and not sold by the producer, wherever said hemp may be stored.

Article second. The tax in question shall be collected by the office of the general treasury of the State, in accordance with the regulative laws regarding the collection of all tax on hemp, it being necessary to keep a special accounting for all receipts.

Article third. The office of the general treasury of the State shall deliver weekly all the proceeds of the collection of the aforementioned tax to the Comision Reguladora del Mercado de Henequen.

Article fourth. The Comision Reguladora del Mercado de Henequen shall employ the proceeds of said tax solely and exclusively to the regulation of the hemp market, in conformity with article 19 of the law of July 16th of the current year.

Article fifth. The office of the general treasury of the State shall obtain from the buying firms of hemp in the State a statement of the sales effected on the day of the promulgation of the present law for the purpose of the payment of the tax referred to in article first.

Article sixth. The office of the general treasury of the State shall establish in accordance with article second of this law a special department for the management and administration of the collection of the tax in question.

68 TRANSITORY

Only article. This law takes effect the day of its promulgation.

Issued in the palace of the legislative power, in Merida, on the 13th day of December, 1921.

Luis Torregrosa, D. P.; R. Gamboa, E., D. S.; Mig Canton, D. S.

Accordingly, I order it to be printed, circulated, and published for public knowledge and due compliance.

Palace of the executive power, in Merida, Yucatan, December 13, 1921.

MANUEL BERZUNZA.

MAX. MENA, G.,
The Secretary General.

Exhibit F to petition

Law for the restriction of the production of hemp
Decree No. 362

Lawyer Manuel Berzunza, acting constitutional governor of the free and sovereign State of Yucatan, I make known:

That the Hon. XXVII Congress of the free and sovereign State of Yucatan, in the name of the people, decrees:

Article 1. The henequen industry in the State is declared to be of public interest, its exploitation and production being under official safeguard.

Article 2. The annual production of hemp will be reduced according to the following bases:

The farmer who produces from 115,001 kilos to 230,000 will reduce his production 15 per cent.

69 The farmer who produces from 230,001 kilos to 345,000 will reduce his production 20 per cent.

The farmer who produces from 345,001 kilos to 460,000 will be reduced 30 per cent.

The farmer who produces from 460,001 kilos to 690,000 kilos will be reduced 40 per cent.

The farmer who produces from 690,001 kilos and more will reduce his production 50 per cent.

For the purpose of this reduction with which we are dealing persons who have coproprietorship in one or more farms will be considered as one person only.

Article 3. The State executive will fix the by-laws, adapting all measures and will take all the steps necessary for the true and exact compliance of this law.

Article 4. This law will cease to exist as soon as the stocks of hemp, unmanufactured, which are to be found in the U. S. of North America, disappear, establishing then the economic law of supply and demand.

TRANSITORY

Sole article. This law will be in force the same day that it is promulgated.

Given in the palace of the legislative power in Merida, Dec. 14, 1921. . . .

Published in the Diario Oficial of Dec. 15, 1921. No. 362. (Diario Oficial No. 7402.)

Frans. CBH

70 *Exhibit "G" to petition*

NEW YORK, *December 22, 1921.*

Mr. TOMAS CASTELLANOS, A.,

Attorney in fact for the Comision Reguladora del Mercado de Henequen, an institution created by an act of the Legislature of the State of Yucatan, Mexico, dated July 16, 1921.

DEAR SIR: The old Comision Reguladora, notwithstanding a growing surplus of sisal during the years 1916, 1917, and 1918, advanced the price to previously unheard of figures. This antagonized the manufacturers of binder twine and rope, and led them to utilize every substitute for Yucatan sisal which could be obtained.

At the same time, owing to the World War, there was a great reduction in the demand for binder twine for shipment to the Continent of Europe and to other parts of the world, which was partly due directly to the war, and partly due to the difficulty of making ship-

ments. This further contributed to the reduction of the demand for sisal for binder twine during the period referred to. All these conditions led to the accumulation of an unsold stock in the United States of sufficient magnitude to supply the entire estimated requirements of the market for the season of 1922.

If such requirements for 1922 should be satisfied entirely or substantially out of the stocks now in this country there would be no outlet for the fresh production of Yucatan—a condition which would result in the practical ruin of the sisal hemp industry in Yucatan, as most of the plants would go to flower and would therefore cease to produce fiber. The remaining plants would in the course
71 of a few years also cease to produce, and a large percentage of the industry in Yucatan would become obliterated. The result of this would be that the grain farmers of the United States, and indeed of the world, would find it impossible to harvest their crops, as there is not enough fiber otherwise produced to fill the binder-twine requirements of the world. In other words, should the stocks of sisal now in the United States be utilized for filling the world's requirements for manufacturing binder twine during the 1922 season, thereafter the necessary supplies for the requirements of the world would not exist. To avoid this is an imperative duty of everyone connected with the business.

The ruin of the industry in Yucatan, which is the sole means of sustenance and support of the people of that state, is a condition which every right-minded man connected with the industry should also seek to avoid. On the other hand, in cooperation in any measures that have that object in view, due specifications must be made for the avoidance of the succession of errors which have led to the present condition. The chief of these has been the endeavor of the old Comision Reguladora, as it existed from 1915 and up until recently, to exact undue prices for Yucatan sisal. There is, in our opinion, but one standard for fixing the price and value of Yucatan sisal, and that is the prices which are ruling from time to time in the markets of the world of such other fibers as are of equal or approximately equal intrinsic value. We refer to Java sisal, East African sisal, New Zealand hemp and Manila hemp of, say, current (Government Grade "I") quality. It is not fair to the binder-twine consumers of the world, nor to the best interests
72 of the sisal-hemp planters of Yucatan, to endeavor at any time to secure for Yucatan sisal a price in excess of such indicated value. Moreover, it would in our opinion be contrary to the spirit, if not the letter, of American law.

If it is clearly understood and agreed that the foregoing facts and conditions constitute the fundamentals upon which the agreement is based, the undersigned Sisal Sales Corporation (hereinafter referred to as the "corporation") is willing to enter into the following agreement with Comision Reguladora del Mercado de Henequen (hereinafter referred to as the "comision"), an institu-

tion created by act of the Legislature of the State of Yucatan, Mexico, dated July 16, 1921:

The comision will appoint the corporation the general agent of the comision for the purposes hereinafter set forth.

The corporation shall act as selling agent in all of the markets of the world for the comision in connection with the sisal which is now owned or controlled by, or which may hereafter, during the pendency of this agreement, be owned or controlled by the comision.

The corporation agrees to do its utmost to sell such sisal as it may be directed to sell by the comision from time to time.

The comision may draw on the corporation at sight to pay for such purchases as the comision may make in Yucatan from time to time. The amount of such drafts shall be limited to such sums as may from time to time be authorized by the corporation, which agrees to authorize the necessary drafts to cover the cost of such sisal which is purchased in Yucatan to cover actual sales which have been made by the corporation for account of
73 the comision. The comision agrees to do its utmost to secure the sisal necessary to fill all orders which the corporation may be able to secure in the markets of the world. The rate per pound at which such drafts shall be drawn shall be agreed upon from time to time between the comision and the corporation.

Sales made by the corporation shall be for account and risk of the comision and shall be based upon price limits to be given by the comision, which agrees that the prices which it may fix from time to time shall not be higher than those asked by other sellers of sisal nor higher than a fair and reasonable parity of price for sisal based upon its intrinsic value as compared with the prices of other fibers.

The price limits to be given by the comision, as aforesaid, shall be based upon prices stated in U. S. currency per pound free on board Progresso or other port in Mexico; said prices shall include all charges for putting f. o. b., including the Mexican Federal export or other duties, all of which shall be for account of the comision. Import duties charged by the countries to which the sisal may be shipped shall be for account of the eventual buyers. The corporation shall arrive at the price limits at which it shall sell in the countries in which sisal may be sold by adding to the f. o. b. prices described in this paragraph all charges for freight, insurance, short weight, inferior quality, landing and storage charges, commission, and all other charges, and shall sell at not less than prices so arrived at.

The corporation shall account for every shipment at actual sales prices less all charges, and shall send account sales with due despatch after the sisal has been delivered to buyers and has been paid for in full.

74 The comision agrees that it will be responsible for short weight or inferior quality, and that it will pay such allowances as the corporation may require to grant to buyers.

The corporation shall make all arrangements for the transportation of the sisal which it may sell for account of the comision and

shall endeavor to effect insurance upon the sisal from the time that the corporation is notified in New York by the comision that such sisal is under the control or at the risk of the comision.

The comision and the corporation shall pay all expenses of maintaining their respective offices, including salaries of clerks, accountants, and other employees, and all cable, mail, and other expenses.

The corporation shall maintain not less than two representatives at Merida, one or more of whom shall be authorized to countersign for the purpose of authentication, drafts drawn by the comision on the corporation. The comision specifically agrees that no draft shall be sold, negotiated, or forwarded for collection unless it has been countersigned as aforesaid by the duly authorized representative of the corporation.

Amount of all drafts drawn by the comision shall be charged to the comision in account current. The net amount of account sales shall be credited in said account current, which shall bear interest at the rate of not less than six per cent per annum.

The corporation shall keep the comision advised regarding the fiber markets of the world, and the comision shall keep the corporation advised of market conditions in Yucatan and Campeche.

In case the comision, for any reason, shall fail to give the
75 corporation selling limits, the corporation is authorized to fill sales of sisal from other suppliers.

The sales of the corporation for account of the comision shall be made by the corporation as agent for the comision, and the comision assumes full responsibility for all sales so made.

As compensation for services of the corporation in selling, financing, attending to insurance, chartering, warehousing, and all other duties assumed by the corporation hereunder, the comision shall pay to the corporation six per cent on the gross amount of all sales made by the corporation for account of the comision.

This agreement shall be for the term of five years from the date of its final ratification by both parties.

It is understood and agreed that during the term of this agreement the comision shall not confer upon or grant to any agent, other than the corporation, any of the powers or duties conferred upon the corporation by the terms of this agreement, it being the understanding that during said period the corporation shall act as sole agent of the comision in connection with all matters covered by this agreement.

It is understood and agreed that all of the terms of this agreement shall be binding upon and shall enure to the benefit of the successors of the comision.

If the terms of this letter are satisfactory to the comision, will you kindly note the acceptance of the same by the comision on the copy of this letter enclosed herewith, and return said copy to the corporation.

SISAL SALES CORPORATION,
By CHAS D. ORTH, *President.*

76 [Form of assent to be placed on copy of letter]

The undersigned, Comision Reguladora del Mercado de Henequen, an institution created by the Act of the Legislature of the State of Yucatan, United States of Mexico, dated July 16, 1921, does hereby for itself and its successors appoint the Sisal Sales Corporation, a corporation organized and existing under the laws of the State of Delaware, United States of America, the sole general agent of said Comision Reguladora and its successors, for the purposes and during the terms set forth in the foregoing letter from said Sisal Sales Corporation, and does hereby consent and agree to all of the terms and conditions in said letter set forth.

COMISION REGULADORA DEL MERCADO DE HENEQUEN.
By TOMAS CASTELLANOS ACEVEDO,
Attorney in Fact.

Dated, New York, December 22, 1921.

Exhibit "H" to petition

"Decree creating a special contribution to sustain the stocks of Henequen bought in the United States of North America by the Comision Exportadora of Yucatan.

"Decree No. 19

"Felipe Carillo Puerto, constitutional governor of the free and sovereign State of Yucatan, to its inhabitants makes known:

"That the Hon. XXVII Constitutional Congress of the free and sovereign State of Yucatan, in the name of the people, decrees:

77 "Article first. In order to defray all the necessary expenses of sustaining the stocks of Henequen in the United States of North America, purchased by the Comision Exportadora of Yucatan, there is placed on unmanufactured Henequen a special tax of four centavos national gold for each kilogram which shall be satisfied by the person or business holding title of possessor to said Henequen. Said Henequen shall not be allowed to be shipped without the owner having first proved that he has paid the stated tax.

"Article second. The said tax shall be collected by the Treasury General of the State which shall pay over the proceeds of it weekly to the Comision Exportadora de Yucatan, for the purpose designed in the first article.

"Article third. The Treasury General will exercise all the economic coactive powers especially provided for the receiving and collection of any taxes on Henequen.

"Article four. The object of this tax which the present law establishes being to provide funds to the Comision Exportadora of Yucatan, all Henequen which is transferred by any title to that institution is exempted from the tax.

"Article fifth. This law will be effective the day of its promulgation.

"Done in the Palace of the Legislative Power of the State, in Merida, Yuc., the 7th day of March, 1922. Fabian Castilla N., D. P.—V. Mena P., D. S.—Hector Victoria A., D. S.—Seals.

"Immediately it shall be printed, authorized, circulated, and published for its knowledge and perfection.

78 "Palace of the Executive Power of the State in Merida of Yucatan, on the 7th day of the month of March of one thousand nine hundred and twenty-two.

"FELIPE CARRILLO,

"*The Secretary-General, Neguir Simon.*"

Exhibit I to petition

This agreement (supplemental to an agreement between the same parties, dated December 22, 1921), made and entered into this 19th day of June, 1923, by and between Comision Exportadora de Yucatan, an institution created by Act of the Legislature of the State of Yucatan, Mexico (hereinafter referred to as the "Exportadora"), party of the first part, and Sisal Sales Corporation, a corporation organized and existing under the laws of the State of Delaware, United States of America (hereinafter referred to as the "Sales Corporation"), party of the second part,

Witnesseth:

Whereas the parties hereto did heretofore, on or about the 22nd day of December, 1921, enter into an agreement by the terms whereof the Exportadora appointed the Sales Corporation the sole general agent of the Exportadora and its successors for the purposes set forth in said agreement, during the term of five years from the date of the final ratification of said agreement by the parties thereto, and as compensation for the services to be rendered by the Sales Corporation under said contract the Exportadora agree to pay the Sales Corporation a commission of six per cent on the gross amount

79 of all sales of sisal made for account of the Exportadora during the term of said contract; and

Whereas said commission was fixed at the rate of six per cent as aforesaid, in part for the purpose of compensating the Sales Corporation for its services in selling, insuring, warehousing, and performing other duties in connection with the large stocks of sisal at that time held by the Exportadora in storage in the United States of America and the stocks of sisal then held by the Exportadora in storage in the United States of America have now been sold, and the Exportadora has requested the Sales Corporation to agree to the readjustment from June 1, 1923, of the rate of commission to be paid by the Exportadora to the Sales Corporation under the aforesaid contract dated December 22, 1921; and

Whereas the Exportadora has advised the Sales Corporation that the maximum amount of sisal which the States of Yucatan and

Campeche in the Republic of Mexico are capable of producing during the next few years is estimated by the Exportadora at not more than 700,000 bales per annum, and the consumption of sisal for the purpose of manufacturing binder twine is estimated by the Sales Corporation to be in excess of 800,000 bales per annum during the same period; and

Whereas the Exportadora has informed the Sales Corporation that it is absolutely necessary, in the opinion of the officers and directors of the Exportadora, in order to maintain and increase the productive capacity of the sisal plantations in the States of Yucatan and Campeche, that the Exportadora make loans, in the amounts and at the times hereinafter referred to, to the planters of said States in order to enable them to conduct the operations of
80 planting, cultivating, cleaning, harvesting, and shipping the sisal produced on said plantations; and

Whereas to furnish the funds necessary to enable the Exportadora to make advances to the planters in the States of Yucatan and Campeche for the purposes aforesaid, the Exportadora has requested the Sales Corporation to loan to the Exportadora the sum of not exceeding $1,500,000 at the times and upon the terms hereinafter set forth:

Now, therefore, in consideration of the premises and of the sum of one dollar by each party to the other in hand paid, receipt whereof is hereby acknowledged, the parties hereto do hereby respectively covenant and agree each with the other as follows:

I. The Exportadora and the Sales Corporation respectively agree that the aforesaid agreement dated December 22, 1921, be and the same hereby is modified and amended so that the commission payable by the Exportadora to the Sales Corporation, as compensation for services of the Sales Corporation in selling, financing, attending to insurance, chartering, warehousing, and all other duties assumed by the Sales Corporation under the agreement dated December 22, 1921, shall be three per cent on the gross amount of all sisal sold or delivered on and after June 1, 1923, for account of the Exportadora; it being understood that after June 1, 1925, if and so long as the Exportadora shall have paid off all indebtedness of every nature of the Exportadora to the Sales Corporation, both principal and interest, then the rate of compensation payable by the Exportadora to the Sales Corporation under said contract dated December 22, 1921, as modified and amended as aforesaid, may be altered by
81 mutual agreement of the parties hereto, and it being further understood and agreed that said contract dated December 22, 1921, shall, except as specifically modified and amended as aforesaid, remain in full force and effect.

II. The Sales Corporation hereby agrees to loan to the exportadora the sum of not exceeding $1,500,000 United States currency to enable the exportadora to make loans to planters of sisal in the States of Yucatan and Campeche, Republic of Mexico, for the purposes hereinabove recited, upon the following terms and conditions,

to wit: Said sum of $1,500,000 will be advanced by the Sisal Sales Corporation to the exportadora in instalments as follows: Not exceeding $100,000 per month during each of the months of July, August, September, October, November, and December, 1923, and not exceeding $180,000 per month during each of the months of January, February, March, April, and May, 1924. In each case, simultaneously with the making of any such advance by the Sales Corporation to the exportadora, the exportadora will deliver to the Sales Corporation or its nominee a promissory note or notes of the exportadora, payable to the order of the Sisal Sales Corporation, bearing interest at the rate of eight per cent per annum, of an aggregate principal amount equal to the advances so made. $100,000 principal amount of said notes of the exportadora shall mature on the 15th day of each month commencing July 15, 1924, and ending September 15, 1925, and interest upon each of said notes shall be payable by the exportadora at the end of each month commencing July 31, 1923, and such notes shall be in the form of the draft of such notes hereto attached, marked "Exhibit A." Said notes
82 of the exportadora shall be secured by, and simultaneously with the delivery thereof there shall be deposited in pledge with the Sales Corporation or its nominee, as security therefor, notes in the form of the draft of such notes in the Spanish language hereto attached marked "Exhibit B," made by planters of sisal in the States of Yucatan and/or Campeche of the Republic of Mexico, of a principal amount at least equal to the principal amount of the notes of the exportadora thereby secured. Such notes of said planters shall constitute a first lien upon the plantations of such planters, respectively, and shall be endorsed or assigned by the Comision Exportadora to the Sales Corporation or its nominee.

It is understood and agreed that unless and until one of the events of default hereinafter referred to shall have occurred, the exportadora will be entitled to collect and receive interest upon all notes of planters pledged with the Sales Corporation as aforesaid, as and when the same shall become due and payable, provided, however, that in every case where the principal of any note of a planter pledged to secure a note of the exportadora as aforesaid shall mature and become payable prior to the maturity of the note of the exportadora as security for which the same is pledged, the exportadora, before collecting the principal of said planter's note, shall deliver to the Sales Corporation or its nominee other note or notes of planters of not less than an equal principal amount in substitution therefor, and that, in the event the exportadora shall fail to deliver to the Sales Corporation or its nominee other note or notes of planters of not less than an equal principal amount in substitution therefor before any planter's note shall have matured
83 and become payable the Sales Corporation may collect and receive the principal of and interest upon the said planter's note which has so matured and become payable, and may apply the principal so collected to the payment of the principal of the note of

the exportadora as security for which said planter's note which shall have matured and become payable shall have been pledged with the Sales Corporation.

III. The exportadora hereby agrees, upon the making of any advance to it by the Sales Corporation hereunder, to deliver to the Sales Corporation the note or notes of the exportadora secured by the pledge of a note or notes of a planter or planters of sisal in the States of Yucatan and/or Campeche in accordance with the terms of Paragraph II hereof.

IV. Upon failure of the exportadora to pay any indebtedness or liability of the exportadora to the Sales Corporation when the same shall become due, or upon failure of the exportadora duly and punctually to perform all of the obligations and agreements contained in the aforesaid agreement, dated December 22, 1921, or in this agreement on the part of the exportadora to be performed, or upon any proceedings being commenced to wind up or liquidate the affairs of the exportadora, or upon the transfer of all or any substantial part of the property of the exportadora to any other institution, each of which events is herein referred to as an event of default, then and in any such event all indebtedness and liabilities of the exportadora to the Sales Corporation shall, at the option of the Sales Corporation, become and be immediately due and payable, without demand or notice, notwithstanding any credit or time allowed to the exportadora by any instrument evidencing any of such indebtedness or liabilities, or otherwise, and the Sales
84 Corporation may forthwith take such action as it may deem proper to enforce, collect, and receive the principal of and interest upon all notes of planters pledged with it, as provided in this agreement, and apply the net amount so collected, as far as need be, toward the payment of any and all indebtedness and liabilities of the exportadora to the Sales Corporation, or the Sales Corporation may, in its discretion, immediately, without demand for payment, without advertisement, and without notice to the exportadora, sell all or any of said notes of planters pledged with the Sales Corporation as aforesaid, at private sale or at public auction or at broker's board or otherwise, at such times and places and for such prices and upon such terms and conditions as the Sales Corporation may deem proper, and may apply the proceeds of such sale or sales, as far as need be, towards the payment of any and all indebtedness or liabilities of the exportadora to the Sales Corporation, together with the expenses of such sale or sales, and interest, returning the overplus, if any, to the exportadora, which shall remain liable for any deficiency remaining unpaid after such application, with interest. If any such sale be at broker's board or at public auction the Sales Corporation may itself be a purchaser at such sale, free from any right to redemption of the exportadora, such right of redemption being hereby expressly waived and released.

In witness whereof Comision Exportadora de Yucatan, party of the first part, has caused its corporate name to be hereunto subscribed by Thomas Castellanos Acevedo, its attorney in fact thereunto duly authorized; and Sisal Sales Corporation, party of the second
85 part, has caused its corporate name to be hereunto subscribed by its president and its corporate seal to be hereunto affixed, attested by its secretary, in duplicate, the day and year first above written.

COMISION EXPORTADORA DE YUCATAN,
By TOMAS CASTELLANOS ACEVEDO,
Attorney in fact.

SISAL SALES CORPORATION,
By CHAS. D. ORTH,
President.

Attest:

A. E. SCHEITHE, *Secretary.*

Exhibit "A"—Form of note

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MERIDA, YUCATAN, ----------, 1923.

On the fifteenth day of ----------, 192--, without grace, the undersigned Comision Exportadora de Yucatan, for value received, hereby promises to pay to Sisal Sales Corporation (hereinafter called the "Sales Corporation"), or order, at the banking office of The Equitable Trust Company of New York, No. 37 Wall Street, in the city and State of New York, in gold coin of the United States of America, of or equal to the present standard of weight and fineness, the sum of ---------- dollars ($\$$----------), with interest thereon from the date hereof at the rate of eight per cent (8%) per annum, payable monthly on the last day of each month, until said principal sum shall have been paid in full, having deposited herewith, as collateral security for the payment, per-
86 formance, and discharge of this and any and all other indebtedness or liabilities of the undersigned to the Sales Corporation or to the holder hereof, due or to become due, now or hereafter existing, direct or indirect, absolute or contingent, and whether such indebtedness or liabilities or any of them shall be in their nature contractual or tortious or arising by operation or law or in any other manner whatsoever, and whether at law or in equity, by statute or constitution, and whether or not the damages shall be liquidated or unliquidated, all of such indebtedness and liabilities being hereinafter referred to as "such liabilities," the following notes of planters of sisal in the States of Yucatan and/or Campeche, in the Republic of Mexico, to wit:

Unless and until one of the events of default hereinafter referred to shall have occurred, the undersigned will be entitled to collect and

receive interest upon all of the aforesaid notes of planters as and when the same shall become due and payable; provided, however, that in every case where the principal of any of said notes of planters shall mature and become payable prior to the maturity of this note, the undersigned, before collecting the principal of said planter's note, shall deliver to the Sales Corporation or the holder hereof or their respective nominees another note or notes of planters of not less than an equal principal amount in substitution therefor, and that in the event that the undersigned shall fail to deliver to the Sales Corporation or the holder of this note or their respective nominees another note or notes of planters of not less than an
87 equal principal amount in substitution for such planter's note pledged hereunder which is about to mature and become payable, the Sales Corporation or the holder hereof may collect and receive the principal of and interest upon the said planter's note pledged hereunder which has so matured and become payable, and may apply the principal so collected to the payment of the principal of this note. In the event that the maker of any planter's note pledged hereunder shall fail to pay the principal thereof at maturity, the undersigned will immediately deliver to the Sales Corporation or to the holder hereof or their respective nominees another note or notes of planters of not less than an equal principal amount in substitution therefor, or shall pay to the Sales Corporation or to the holder hereof a sum in cash equal to the amounts unpaid upon said planter's note, both principal and interest.

As security for the payment, performance, and discharge of any and all such liabilities, the Sales Corporation or the holder hereof is hereby given a lien upon any and all property of every name and nature whatsoever of the undersigned which now is or at any time hereafter may be in the possession of or in transit to the Sales Corporation or the holder hereof or of or to anyone for the Sales Corporation or the holder hereof, whether delivered or set in transit for safe-keeping or otherwise.

Upon the happening of any of the following events (herein referred to as "events of default"), to wit: Upon failure of the undersigned to pay, perform, or discharge any of such liabilities or any part thereof, or upon any proceedings being commenced to wind up or liquidate the affairs of the undersigned, or upon the transfer
88 of all or any substantial part of the property of the undersigned or any other institution, then all such liabilities shall, at the option of the Sales Corporation or the holder hereof, become and be immediately due and payable, without demand or notice, notwithstanding any credit or time allowed to the undersigned by any instrument evidencing any of such liabilities or otherwise, and the Sales Corporation or the holder hereof may forthwith take such action as they may respectively deem proper to enforce, collect, and receive the principal of and interest upon all notes of planters pledged hereunder, and may immediately or at any time thereafter,

without notice of the amount due or claimed to be due, without demand for payment, without advertisement, and without notice of sale, each and all of which is hereby expressly waived, sell the whole or any part of the notes of planters pledged hereunder and any other property securing any of such liabilities, including any negotiable instruments and/or choses in action, at private sale or at public auction or at broker's board or otherwise at such times and places and at such prices and upon such terms and conditions as the Sales Corporation or the holder hereof may deem proper, and apply the proceeds of any such collection, sale or sales, as far as need be, towards the payment of any or all of such liabilities, together with interest and the expenses of such collection, sale or sales, including attorneys' fees, returning the overplus, if any, to the undersigned, which shall remain liable for any deficiency remaining unpaid after such application, with interest. If any such sale be at broker's board or public auction the Sales Corporation or the holder hereof may be the purchaser at such sale, free from any right of redemp-
89 tion of the undersigned, such right or equity of redemption being hereby expressly waived and released.

It is agreed that upon any transfer of this note the Sales Corporation or any holder hereof may deliver any or all property securing this note or any part thereof to the transferee, who shall thereupon become vested with all the powers and rights herein conferred upon the Sales Corporation or upon the holder hereof in respect of this note and such property, and the Sales Corporation and all subsequent holders hereof up to the time of such transfer shall be thereafter forever relieved and fully discharged from any liability or responsibility in connection with such property so transferred.

It is understood and agreed that upon the payment of this note in full, both principal and interest, by the undersigned, this note, together with any and all notes of planters specifically pledged to secure the same, and any and all notes of planters pledged hereunder in substitution therefor, shall be returned to the undersigned.

COMISION EXPORTADORA DE YUCATAN,

By _____

Exhibit "B"—Form of note made by planters

For $_____

(We) (I) owe and (we) (I) will pay at Merida, State of Yucatan, Mexico, on the_____day to the Comision Exportadora de Yucatan the sum of _____lawful money in United
90 States currency, which (I) (we) have received to (our) (my) entire satisfaction in said United States currency, by the receipt and delivery whereof (we) (I) hereby waive articles 846 and 847 of the Civil Procedure of the State, which verbatim et literatim says:

"Article 846. There is stipulated hereby a period of two years during which action will lie for the securing of the return of an

indebtedness or personal note, in which a person admits having received from another any sum or loan, at the end of which time he may be considered not to have received it. The two years will be reckoned from the date of the note."

"Article 847. Aside from the exception of the two years above recited, the burden of proof of delivery is upon the creditor; but if the debtor does not demand within two years that the creditor prove this, it is presumed to have been legally done, unless evidence is established to the contrary."

The said amount received of_____has been delivered in the form of a financing loan of investment in the costs of management, maintenance, and development of_____finca rûstica (city property or farm lands) called_____and must, therefore, be held to be a liability of priority, covered by article 1432, Section II, and article 1433 as revised and added to the State civil law, reading:

"Article 1432. From the amount of the mortgage on any piece of property payments shall be made in the following order: I. Costs of the judgment covered in article 1431. II. Costs of maintenance and management of the thing mortgaged, included therein being any advances of money from the Comision Exportadora de Yucatán and the Comisión Reguladora del Mercado de Hene-
91 quen, to the producers on account of their henequen produced or any soever other classes of debts contracted with a view to financing contracted by the producer and credited to the said institutions, provided they are in keeping with the legitimate purposes of the said institutions. III. The costs of insuring the thing mortgaged. IV. Such contributions as are due by them during the last five years. V. Payments due the mortgagors as shown by the date of the respective signature, and in the payments shall be included interest for the last three years."

"Article 1433. The reason why the liabilities covered in cases I and II of the foregoing article must be paid in the order indicated is that they are essential requirements: The costs of maintenance and management must necessarily be met, and the costs of insurance are unalterable. That priority shall be given to the payment of advances by Comision Exportadora de Yucatan and by the Comision Reguladora del Mercado de Henequen, and to the debts for financing contracted by the producer in favor of the two institutions, covered in Section II of the foregoing article, it will be sufficient to produce the document in which the said obligations are set forth."

It is hereby fully stipulated and agreed that (I) (we) are bound to pay the Comision Exportadora de Yucatan the sum of_____ exactly in current legal tender of the United States of America, to the exclusion of anysoever other kind of money, even though it be in full force and of current circulation.

It is further stipulated and agreed that in the event that (I) (we) shall transfer the said real estate, financed with the money with which this agreement deals, the Comision Exportadora de
92 Yucatan shall have the right to declare the terms of the credit matured, with the resultant power of demanding full payment of the loan which the present agreement transacts.

The principal amount of the indebtedness of _____ _____ shall bear interest at the rate of _____ per cent per annum, which (I) (we) will pay simultaneously with the said principal.

(I) (We) waive the privilege of (my) (our) domicile to which article 100, Section III, of the State Code of Civil Procedure refers, which reads:

"Article 100. Should there be any question as to the jurisdiction of the judgment, preference will be given by any judge in the following order. III. The court wherein is located the domicile of the debtor; if there be more than one, then the court which the maker of the note chooses."

In other words, (I) (we) hereby submit to the duly legalized Justices of the Judicial Department of Merida, in all matters covered by the herewith agreement, being also liable for the payment of costs, damages, and fees which delay in payment, shall make necessary and the judicial and other than judicial procedures which the creditor may have considered it proper to engage in for the collection of the credit.

MERIDA, YUCATAN, _____

This credit with all its rights and actions has been granted and removed to the named corporation "Sisal Sales Corporation," constituted according to the laws of the State of Delaware, United States of America, as security and warrant of duties contracted to its favor by the "Comision Exportadora de Yucatan" and in this effi-
93 cacy this document is submitted to the said "Sisal Sales Corporation" who remains authorized to collect and receive directly the amount of the granted credit, as well as to alienate and transfer the same credit, in order to apply at the fulfillment of the said duties, according to the stipulations of the same. Present the debtor Mr. _____ hereby evidences that he has been informed and acknowledges this cession in accordance of the terms of same and allows that the transferee corporation can directly demand and receive the granted credited amount to alienate and transfer the said credit. The "Comision Exportadora de Yucatan" as much as the debtor Mr. _____ _____ they expressly surrender their rights to whatever amount of this credit could not be collected nor received by the transferee Corporation and also surrender the article 1326 of the Civil Code of Yucatan to whom they grant that right which reads as follows: "Article 1326. The creditor to whom this has been given in security a title of credit has not the right tho when the term

is due of the credit pledged to collect nor receive it although it is wilfully offered by the debtor. * * *"

And as witness, the following have affixed their signatures, at Merida.

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94 In United States District Court

[Title omitted.]

Motion to dismiss

Filed Sept. 26, 1924

To the judges of the District Court of the United States for the Southern District of New York:

The defendants, Sisal Sales Corporation, Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada, and Interstate Trust & Banking Company, move to dismiss the petition herein and the whole thereof for the reasons and upon the grounds hereinafter set forth:

I. The petition herein does not state facts sufficient to constitute a valid cause of action in equity against these defendants or any of them.

II. It appears on the face of the petition herein that said petition is wholly without equity.

III. It appears on the face of the petition herein that it is
95 impossible to adjudicate or make any judgment or decree in this action, except a judgment or decree dismissing the petition herein, without examining, inquiring into, and investigating the laws, proclamations, and decrees of independent and sovereign foreign States, to wit, the Republic of the United States of Mexico and the State of Yucatan, and without investigating, examining, inquiring into, passing upon, and judging the lawfulness, validity, or legality of said laws, proclamations, and decrees, and of acts done by or under the authority of such sovereign and independent States and the laws, proclamations, and decrees thereof.

Wherefore, and for other good reasons of objection appearing on the face of the petition, these defendants respectfully pray that the petition of the United States of America herein be dismissed with costs.

MURRAY, ALDRICH & ROBERTS,

Solicitors for the Defendants, Sisal Sales Corporation, Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, The Equitable Trust Company of New York, The Royal Bank of Canada and Interstate Trust & Banking Company.

37 Wall Street, New York, N. Y.

[File endorsement omitted.]

96 In United States District Court

[Title omitted.]

Motion of defendants, Charles D. Orth, et al., to dismiss

Filed Sept. 26, 1924

To the judges of the District Court of the United States for the Southern District of New York:

The defendants, Charles D Orth, Michael J. Smith, Charles D. Orth, jr., and Hanson & Orth, move to dismiss the petition herein, and the whole thereof, for the reasons and upon the grounds hereinafter set forth:

I. The petition herein does not state facts sufficient to constitute a valid cause of action in equity against these defendant or any of them.

II. It appears on the face of the petition herein that said petition is wholly without equity.

III. It appears on the face of the petition herein that it is impossible to adjudicate or make any judgment or decree in this action, except a judgment or decree dismissing the petition herein, without

97 examining, inquiring into and investigating the laws, proclamation, and decrees of independent and sovereign foreign States, to wit, the Republic of the United States of Mexico and the State of Yucanta, and without investigating, examining, inquiring into, passing upon and judging the lawfulness, validity or legality of said laws, proclamations, and decrees, and of acts done by or under the authority of such sovereign and independent States and the laws, proclamations, and decrees thereof.

Wherefore, and for other good reasons of objection appearing on the face of the petition, these defendants respectfully pray that the petition of the United States of America herein be dismissed with costs.

Dated, New York, N. Y., September 26th, 1924.

MEDINA & SHERPICK,
Solicitors for the Defendants, Charles D. Orth, Michael J. Smith, Charles D. Orth, jr., and Hanson & Orth.

Office and post office address: 165 Broadway, Borough of Manhattan, City of New York, N. Y.

HAROLD B. MEDINA,
Of counsel.

[File endorsement omitted.]

98 In United States District Court

[Title omitted.]

Opinion

Filed June 4, 1925

Emory R. Buckner, United States attorney, for complainant. A. F. Myers, David A. L'Esperance, and Miller Hughes, special assistants to the Attorney General, counsel.

Murray, Aldrich & Roberts, solicitors for defendant, Sisal Sales Corporation, Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada, Interstate Trust and Banking Company, and Comision Exportadora de Yucatan; Winthrop W. Aldrich and Francis T. Christy, counsel.

Medina & Sherpick, attorneys for Hanson & Orth, Charles D. Orth, Michael J. Smith, and Charles D. Orth, jr.; Harold R. Medina, counsel.

Augustus N. Hand, district judge: This is a suit to restrain an alleged conspiracy by the defendants in violation of the Sherman Antitrust Act and the Wilson Act.

The conspiracy relied upon was to monopolize the export
99 market to the United States in sisal, a product of Yucatan, extensively used for binder twine for agricultural purposes. It is unnecessary to determine whether an unlawful conspiracy was once formed. The original purpose of the agreements and transactions pleaded by the Government with which most of the parties defendant were connected was to enable the defendant banks to dispose of large quantities of sisal on which they had advanced money after the war. The complaint alleges that those stocks were disposed of some years ago.

It is assumed that the defendants planned to advocate and obtained legislation in Yucatan giving the Comision Exportadora a monopoly and that the Eric Corporation which held the surplus stocks of the banks pooled its sisal with that of the Yucatan monopolistic corporation. These stocks were long ago disposed of and we have nothing left but the Comision Exportadora, and its selling agent in America, the Sisal Sales Corporation, to which the various defendant banks are lending money in aid of their financial operations.

The question is whether the defendants now should be restrained from dealing with the Sisal Sales Corporation and its principal, Comision Exportadora de Yucatan, because the latter is a monopoly created by the Government of Yucatan and protected by such favorable and discriminatory tax laws of that State that it is enabled to control the American market and fix prices in sisal. I think
100 it manifest from the decision of the Supreme Court in American Banana Co. *v.* United Fruit Company, 213 U. S. 347, that an agreement to procure monopolistic legislation in another country cannot be treated as unlawful by our courts. The Government attempts to draw a distinction between the American Banana case because that was an action by an individual to recover treble damages for injuries arising out of a conspiracy to monopolize the banana trade. One of the wrongful acts consisted of a seizure by the Costa Rica Government of a banana plantation belonging to the American Banana Company, at the alleged instigation of the defendant United Fruit Company. The Supreme Court held the cause of action invalid and said "a conspiracy in this country to do acts in another jurisdiction does not draw to itself those acts and make them unlawful, if they are permitted by the local law."

If acts "permitted by the local law" could not be inquired into for the purpose of awarding damages to a person injured, I do not follow the reasoning which regards them as a basis for a suit by the Government to restrain the parties connected with them as conspirators. It is true enough that an act, in itself innocent, may be a step in carrying out an unlawful conspiracy, but when, as here,
101 nothing remains of the conspiracy that is not dependent upon the claimed unlawfulness of such act the whole case must fall.

An injunction to restrain dealings with the Comision Exportadora de Yucatan and the Sisal Sales Corporation would be quite futile, so far as the public interest in concerned. Anyone else could surely deal with them and the successors to the alleged unlawful conspirators would have to be at once treated as legitimate traders and go scatheless.

The motion to dismiss is granted.

A. N. H., *D. J.*

JUNE 4, 1925.

[File endorsement omitted.]

102 In United States District Court

[Title omitted.]

Notice of proposed order

SIR: Please take notice that a proposed order, of which the within is a true copy, will be presented for settlement and entry herein to Mr Augustus N. Hand at his chambers in this court, at the Woolworth Building, in the Borough of Manhattan, City of New York, on the 25th day of June, 1925, at 11 o'clock in the forenoon.

Dated: New York, June 17th, 1925.

Yours, etc.,

MURRAY, ALDRICH & ROBERTS,
Attorneys for Defendants, Sisal Sales Corporation, Frederick T. Walker, Alvin W. Krech, J. A. Beatson, Lynn H. Dinkins, F. W. Black, The Equitable Trust Company of New York, The Royal Bank of Canada, Interstate Trust and Banking Company, Comision Exportadora de Yucatan, and Tomas Castellanos Acevedo.
37 Wall Street, Borough of Manhattan, New York, N. Y.

MEDINA & SHERPICK,
Attorneys for Defendants, Hanson & Orth, Charles D. Orth, Michael J. Smith, and Charles D. Orth, Jr.
165 Broadway, Borough of Manhattan, New York, N. Y.

To: Hon. Emory R. Buckner, Post Office Building, New York, N. Y.

103 In United States District Court

[Title omitted.]

Order dismissing petition

Filed June 30, 1925

Motions having been made herein by defendants, Hanson & Orth, Charles D. Orth, Michael J. Smith, and Charles D. Orth, jr., by their attorneys, Medina & Sherpick, and by defendants, Sisal Sales Corporation, Frederick T. Walker, Alvin W. Krech, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada, Interstate Trust and Banking Company, Comision Exportadora de Yucatan, and Tomas Castellanos Acevedo, by their attorneys, Muray, Aldrich & Roberts, to dismiss the petition herein upon the ground that it does not state facts sufficient to constitute a cause of action against said defendants, or any of them and on other grounds.

104 Now on reading and filing the notice of motion for defendants Hanson & Orth, Charles D. Orth, Michael J. Smith, and Charles D. Orth, jr., and the notice of motion for defendants Sisal Sales Corporation, Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, The Equitable Trust Company of New York, The Royal Bank of Canada, Interstate Trust and Banking Company, and Comision Exportadora de Yucatan, dated September 26, 1924, read in support of said motions, and the name of the defendant Alvin W. Krech having been considered as incorporated therein, said Alvin W. Krech being considered as one of the defendants on whose behalf the motion to dismiss the petition was argued, with the same force and effect as though said notice of motion had originally been served on his behalf, and the defendant Tomas Castellanos Acevedo having been permitted in open court to join in said motion, with the same force and effect as though said notice of motion had also originally been served on his behalf, and after hearing Winthrop W. Aldrich and Harold R. Medina, of counsel for the said defendants, respectively, in support of the said motion, and after hearing A. F. Myers, special assistant to the Attorney General in opposition thereto, and due deliberation having been had thereon and a decision rendered therein, and on filing the opinion of the court, it is hereby

Ordered that the said motion be, and the same hereby is, in all respects granted and the said petition herein is hereby dismissed.

AUGUSTUS N. HAND,
United States District Judge.

[File endorsement omitted.]

105 In United States District Court

[Title omitted.]

Notice of designation of parts of record to be printed

Filed July 24, 1925

SIRS: Please take notice that the appellant designates the following as the portions of the record in this cause to be incorporated into the transcript on its appeal:

1. Original petition, filed July 24, 1924.

2. All motions, notices of motions, and orders filed or entered, including:

(a) Notice of motion of defendants, Hanson & Orth, Charles D. Orth, Michael J. Smith and Charles D. Orth, jr., dated September 26, 1924, to dismiss the petition.

(b) Motion of defendants, Hanson & Orth, Charles D. Orth, Michael J. Smith and Charles D. Orth, jr., filed September 26, 1924, to dismiss the petition.

(c) Notice of motion of defendants, Sisal Sales Corpora-
106 tion, Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada and Interstate Trust and Banking Company, dated September 26, 1924, to dismiss the petition.

(d) Motion of defendants, Sisal Sales Corporation, Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada and Interstate Trust and Banking Company, filed September 26, 1924, to dismiss the petition.

(e) Subsequent orders joining the defendants Comision Exportadora de Yucatan, Alvin W. Krech and Tomas Castellanos Acevedo in the aforesaid notice of motion and motion of defendants Sisal Sales Corporation, *Corporation* Frederick T. Walker, Lynn H. Dinkins, F. W. Black, J. A. Beatson, The Equitable Trust Company of New York, the Royal Bank of Canada and Interstate Trust and Banking Company to dismiss the petition.

3. Opinion of the Honorable Augustus N. Hand, United States district judge, dated June 4, 1925.

4. Final decree, entered June 25, 1925, granting the defendants' motions to dismiss and dismissing the petition.

5. Petition for appeal.

6. Assignment of errors.

7. Order allowing appeal.

8. Citation.

Dated: New York, July 24, 1925.

Yours, etc.

EMORY R. BUCKNER,
United States Attorney.

WILLIAM J. DONOVAN,
Assistant to the Attorney General.

107 MILLER HUGHES,
Special Assistant to the Attorney General.

To:

Murray, Aldrich & Roberts, 37 Wall St., Borough of Manhattan, New York, N. Y., counsel for defendants, Sisal Sales Corporation, Frederick T. Walker, Alvin W. Krech, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada, Interstate Trust and Banking Company, Comision Exportadora de Yucatan and Tomas Castellanos Acevedo.

Medina & Sherpick, 165 Broadway, Borough of Manhattan, New York, N. Y., counsel for defendants, Hanson & Orth, Charles D. Orth, Michael J. Smith, and Charles D. Orth, jr.

And to the clerk of the District Court of the United States for the Southern District of New York.

108 Service of the within praecipe is hereby acknowledged this 24th day of July, A. D. 1925.

MURRAY, ALDRICH & ROBERTS,
37 Wall St., Borough of Manhattan, New York, N. Y., counsel for defendants, Sisal Sales Corporation, Frederick T. Walker, Alvin W. Krech, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada, Interstate Trust and Banking Company, Comision Exportadora de Yucatan, and Tomas Castellanos Acevedo.

MEDINA AND SHERPICK,
165 Broadway, Borough of Manhattan, New York, N. Y., counsel for defendants, Hanson and Orth, Charles D. Orth, Michael J. Smith and Charles D. Orth, jr.

[File endorsement omitted.]

109 In United States District Court

[Title omitted.]

Petition for appeal

Filed July 24, 1925

The United States of America, petitioner, feeling itself aggrieved by the final decree granting the motions of the defendants to dismiss and dismissing the petition in the above-entitled cause, entered on the 25th day of June, 1925, by its counsel prays an appeal therefrom to the Supreme Court of the United States.

The particulars wherein the United States of America considers said order erroneous are set forth in the assignment of errors herewith filed, to which reference is made.

The United States further prays that a transcript of the record, proceedings, and papers upon which said order was made and entered, duly authenticated, may be transmitted at the earliest
110 practicable date to the Supreme Court of the United States.

EMORY R. BUCKNER,
United States Attorney.

JOHN G. SARGENT,
Attorney General.
WILLIAM J. DONOVAN,
Assistant to the Attorney General.
MILLER HUGHES,
Special Assistant to the Attorney General.

[File indorsement omitted.]

111 In United States District Court

[Title omitted.]

Order allowing appeal

Filed July 24, 1925

Be it remembered that in the above-entitled cause, on the 24th day of July, 1925, the United States of America, appearing by counsel, presented and caused to be filed its petition praying an appeal to the Supreme Court of the United States from the final decree entered therein on the 25th day of June, 1925, granting the motions of the defendants to dismiss and dismissing the petition, and at the same time presented and caused to be filed its assignment of errors, all as required by the statutes and rules of the court. On consideration thereof it is hereby ordered that said appeal as prayed be, and is hereby, allowed; and the clerk of this court is hereby directed to transmit a duly authenticated transcript of the record, papers and proceedings in said cause to the Supreme Court of the United States at the earliest practicable date.

AUGUSTUS N. HAND,
District Judge.

[File endorsement omitted.]

112 [Citation in usual form showing service on Murray, Aldrich & Roberts, filed July 24, 1925, omitted in printing.]

114 In United States District Court

[Title omitted.]

Assignments of error

Filed July 24, 1925

Comes now the United States of America, petitioner, by its counsel, and, in connection with its application for appeal, files the follow-

ing assignment of errors upon which it will rely in its appeal to the Supreme Court of the United States from the final decree of the District Court entered June 25, 1925, granting the motions of the defendants to dismiss and dismissing the petition in the above entitled cause.

The District Court erred:

In failing to hold that the petition sufficiently alleges that the defendants are engaged in a combination and conspiracy in restraint of the interstate and foreign trade and commerce of the United
115 States in sisal and in a combination and conspiracy to increase the marked price of sisal in the United States and are monopolizing such trade and commerce, and that such combination and conspiracy was entered into and is largely operating in the United States and within the jurisdiction of the court; and in failing to hold that the combination, conspiracy, and monopoly alleged in the petition is in violation of the act of July 2, 1890, commonly known as the Sherman Antitrust Act, and also in violation of Section 73 of the act of August 27, 1894, as amended by the act of February 12, 1913, commonly known as the Wilson Tariff Act.

II

In holding that "the original purpose of the agreements and transactions pleaded by the Government with which most of the parties defendant were connected was to enable the defendant banks to dispose of large quantities of sisal on which they had advanced money after the war," and that, as the stocks of sisal stored in the United States and in Yucatan and pooled by the defendants in furtherance of the alleged unlawful combination, conspiracy, and monopoly were disposed of before the suit was filed, there was nothing being done by the defendants at the time the suit was filed against which the court could enter a decree.

III

In failing to hold that under the allegations of the petition the original purpose of the combination and conspiracy, and the effect of same, was to restrain and monopolize the interstate and foreign trade and commerce of the United States in sisal, including
116 all sisal whether frech or stored, and to increase its marked price in the United States, that such combination and conspiracy continuously operated and was in existence at the time the petition was filed, that the pooling of the stocks of stored sisal at various times were simply among the overt acts committed in the United States in furtherance of such combination and conspiracy.

IV

In failing to hold that while it appears from the petition that the stored sisal pooled by the defendants in furtherance of the conspiracy has all been finally sold to the manufacturers, it also ap-

pears from the petition that the defendants are still engaged in the combination and conspiracy originally entered into and that the contracts, agreements, and relations now existing between them had their inception in, are pursuant to, and in continuation of the original unlawful combination and conspiracy to restrain and monopolize the interstate and foreign trade and commerce of the United States in sisal and to increase the market price of sisal in the United States, and in failing to hold that it would be the duty of the court, if the allegations of the petition are true, to restrain the further carrying out of the contracts and agreements now existing between the defendants.

V

In holding that the Government's case now rests wholly upon the unlawfulness of a conspiracy among the defendants to secure the enactment of certain laws by the foreign and sovereign State
of Yucatan to effect a monopoly in the purchase of sisal in
117 Yucatan and thereby control the American market and fix prices, and that the court could not enter a decree against the defendants without inquiring into and passing judgment on the validity of such laws.

VI

In failing to hold that the Government's case rests substantially upon the proposition that the antitrust laws, particularly Section 73 of the Wilson Tariff Act, prohibit persons or corporations of the United States or parties doing business in the United States from engaging in a combination and conspiracy with a foreign corporation or persons located in a foreign country where the purpose and effect is either to monopolize the importation of an article from a foreign country into the United States or to increase the market price in the United States of such imported article; and in failing to hold that the petition charges the Sisal Sales Corporation and those affiliated with it with being engaged in such an unlawful combination and conspiracy with the Comision Exportadora de Yucatan, both as to monopolizing the importation of sisal from Yucatan into the United States and of increasing its market price in the United States, and in failing to hold that if the allegations of the petition should be established, it would be the duty of the court to restrain the Sisal Sales Corporation and its affiliated interests from further participating in the existing combination with the Comision Exportadora de Yucatan and from engaging in a similar combination in the future.

VII

In failing to hold that it appears from the petition that
118 such acts of the conspirators as were committed in Yucatan

constitute only a part of the history of the unlawful conspiracy formed within the United States and within the jurisdiction of the court, and that, while the acts committed in Yucatan contribute, those committed in the United States also materially contribute to a restraint in and monopoly of the trade and commerce of the United States in sisal and the increase of the market price of sisal in the United States, and in failing to hold that if the allegations of the petition are established it would be the duty of the court to restrain such acts as are now being committed in the United States in furtherance of the combination, conspiracy, and monopoly alleged in the petition.

VIII

In holding that "the question is whether the defendants now should be restrained from dealing with the Sisal Sales Corporation and its principal, Comision Exportadora de Yucatan, because the latter is a monopoly created by the Government of Yucatan and protected by such favorable and discriminatory tax laws of that State that it is enabled to control the American market and fix prices"; and in holding that "an injunction to restrain dealings with the Comision Exportadora de Yucatan and the Sisal Sales Corporation would be quite futile, so far as the public interest is concerned," on the theory that "anyone else could surely deal with them and the successors to the alleged unlawful conspirators would have to be at once treated as legitimate traders and go scatheless."

IX

In failing to hold that it appears from the petition that
119 under the contracts and relationship between the Sisal Sales Corporation and the Comision Exportadora de Yucatan the former supplies from the United States the money with which the latter purchases sisal in Yucatan for exportaation to the United States and acts as its exclusive agent in the sale of same in the United States, that the Sisal Sales Corporation gives the Comision Exportadora de Yucatan the financial backing and credit necessary to a restraint of competition in and a monopolization of the sisal trade of the United States and the increase and arbitrary control of the price of sisal in the United States, that the contracts and agreements between the Sisal Sales Corporation and the Comision Exportadora de Yucatan were entered into for the purpose of restraining competition and effecting a monopoly in the importation of sisal into the United States and its sale therein and for the purpose of increasing its market price in the United States, and that without the participation of the Sisal Sales Corporation and its affiliated interests in the alleged combination and conspiracy the monopoly in the importation of sisal into and its sale in the United States could not have

been effected or now be maintained nor could the market price in the United States have been increased or now be arbitrarily controlled, and in failing to hold that if the allegations of the petition are established it would be the duty of the court to restrain the Sisal Sales Corporation and its affiliated interests from further participating in the alleged combination and conspiracy and from engaging in a similar combination or conspiracy in the future.

X

In failing to hold that the petition prays not merely for "an injunction to restrain dealings with the Comision Exporta-
120 dora de Yucatan and the Sisal Sales Corporation" but for an injunction to restrain the further carrying out of the contracts between the Comision Exportadora de Yucatan and the Sisal Sales Corporation and for a severance of the relationship and a breaking of the combinations between them, and in failing to hold that if the facts alleged in the petition are established such injunction should be granted.

XI

In failing to hold that the financial backing of the Comision Exportadora de Yucatan by the Sisal Sales Corporation, as provided for in the contracts alleged in the petition to exist between them, is one of the overt acts being continuously committed in the United States in furtherance of the alleged combination and conspiracy by a conscious participant in and beneficiary of same, and that the financial support of and other connection with the Yucatan corporation on the part of the American defendants and what is done in the United States are material factors in monopolizing the importation of sisal into the United States and in giving the combination its force and power to arbitrarily raise and control the price of sisal to the American consuming public, and thus subject, if the allegations of the petition are true, to injunction.

XII

In failing to hold that while the court may not always compel a free and open market in the purchase of sisal within the State of Yucatan, the court does have the power, when the sisal produced in Yucatan enters into and becomes an article of the foreign trade and commerce of the United States, to restrain the doing of any act in the United States, or to restrain any defendant against
121 whom a decree of the court can be enforced from further carrying out any contract or agreement. In furtherance of the alleged combination and conspiracy to restrain and monopolize the importation of sisal into the United States and its sale therein or to increase its market price to the consuming public therein.

XIII

In failing to hold that the court would have the power and duty under the antitrust laws and particularly under the antitrust provisions of the Wilson Tariff Act, if the allegations of the petition are true, to restrain the Sisal Sales Corporation and the Comision Exportadora de Yucatan from further carrying out the contracts and agreements alleged in the petition to exist between them, under which every pound of sisal imported into the United States is controlled and sold among the several States by the combination and under which the combination is given its force and power to exact from the American consumers arbitrary and unreasonable prices for same, and that it would be the duty of the court to restrain all of the defendants from entering into similar contracts and agreements or a similar combination and conspiracy in the future.

XIV

In failing to hold that the petition states facts sufficient to constitute a valid cause of action in equity against the defendants to which they should answer.

122 XV

In granting the defendants' motions to dismiss and in dismissing the petition.

EMORY R. BUCKNER,
United States Attorney.

WILLIAM J. DONOVAN,
Assistant to the Attorney General.
MILLER HUGHES,
Special Assistant to the Attorney General.

[File endorsement omitted.]

123 [Clerk's certificate to foregoing transcript omitted in printing.]

124 In Supreme Court of the United States

Statement of points to be relied upon and designation by appellant to print the entire record

Filed Sept. 8, 1925

Now comes the appellant, the United States of America, by its Solicitor General, and states that it intends to rely on the points set forth in the assignment of errors.

The appellant designates as necessary to the consideration of the points set forth in the assignment of errors the entire record as sent up from the court below and filed.

WILLIAM J. DONOVAN,
Acting Solicitor General.

Service of the within appellant's statement of points and designation of record is hereby acknowledged this 4th day of September, A. D. 1925.

MURRAY, ALDRICH & ROBERTS,
37 Wall St., Borough of Manhattan, New York, N. Y., counsel for appellees, Sisal Sales Corporation, Frederick T. Walker, Alvin W. Krech, Lynn H. Dinkins, F. W. Black, J. A. Beatson, the Equitable Trust Company of New York, the Royal Bank of Canada, Interstate Trust and Banking Company, Comision Exportadora de Yucatan and Tomas Castellanos Acevedo.

MEDINA & SHERPICK,
165 Broadway, Borough of Manhattan, New York, N. Y., counsel for appellees, Hanson and Orth, Charles D. Orth, Michael J. Smith, and Charles D. Orth, Jr.

[File endorsement omitted.]

(Indorsed on cover:) File No. 31415. S. New York D. C. U. S. Term No. 200. The United States of America, appellant, *vs.* Sisal Sales Corporation, Charles D. Orth, Alvin W. Krech et al. Filed August 21st, 1925. File No. 31415.